# Administrative Rules and Procedures (ARP)

Chapter 1 | Institutional Governance

Chapter 2 | Institutional Organization and Affiliated Entities

Chapter 3 | Ethics, Equity and Equal Opportunity

Chapter 4 | Curriculum and Course Management

Chapter 5 | Student Life and Conduct

Chapter 6 | HR - Hiring, Work Rules and Assignments

Chapter 7 | HR - Compensation and Changes in Status

Chapter 8 | HR - Benefits

Chapter 9 | HR - Performance Evaluation, Promotion and Tenure

Chapter 10 | HR - Discipline and Dispute Resolution

Chapter 11 | Research and Intellectual Property

Chapter 12 | Physical Asset Management

Chapter 13 | Financial Resource Management

Chapter 14 | Business Operations

Chapter 15 | Information Management and Data Security

Chapter 16 | Safety and Risk Management

Chapter 17 | Intercollegiate Athletics

Chapter 18 | Community and Governmental Relations

Appendices

Recompilation 2017

## About the ARP

This collection of Administrative Rules and Procedures ("ARP") includes the rules and procedures (collectively referred to as "Rules") duly adopted through the formal process authorized by the Board of Regents in Policy 1.10, Regents Policy Manual ("RPM"). This process includes development and vetting by the relevant University constituents, recommendation from the University Administrative Council (UAC), and review and final adoption or rejection by the Chancellor.

The ARP's purpose is to set and communicate the rules by which the Regents overarching policies are to be implemented, in furtherance of the efficient and effective management of the institution, and consistent with principles of shared governance. The Rules set forth in this ARP constitute NMSU policy, provided such Rules are consistent with the RPM. In the event of any inconsistency, the provisions of the RPM are controlling.

In addition to the ARP, additional regulations related to matters uniquely within the jurisdiction of the issuing unit are authorized (Other Regulations). A listing of links to those additional

regulations can be found here. In the event of any inconsistency between any of the Other Regulations and the RPM or the ARP, the terms of the RPM and ARP are controlling.

## Equal Opportunity/Affirmative Action Statement

New Mexico State University, in compliance with applicable laws and in furtherance of its commitment to fostering an environment that welcomes and embraces diversity, does not discriminate on the basis of age, ancestry, color, disability, gender identity, genetic information, national origin, race, religion, retaliation, serious medical condition, sex (including pregnancy), sexual orientation, spousal affiliation, or protected veteran status in its programs and activities, including employment, admissions, and educational programs and activities. Inquiries may be directed to the Executive Director, Title IX and Section 504 Coordinator, Office of Institutional Equity, P.O. Box 30001, 1130 E. University Avenue, Las Cruces, NM 88003; 575-646-3635; equity@nmsu.edu

NMSU is committed to providing reasonable accommodations to qualified individuals with disabilities upon request. To request an accommodation, please contact Student Accessibility Services, Corbett Center Student Union, Room 2008, Las Cruces, NM 88003; 575-646-6840 or sas@nmsu.edu or the Office of Institutional Equity, O'Loughlin House, 1130 E. University Avenue, Las Cruces, NM 88003; 575-646-3635 or equity@nmsu.edu. One week advance notice is appreciated. To request this document in an alternate form, please contact the NMSU General Counsel at the Office of University General Counsel, gencounsel@nmsu.edu or 575-646-2446.

*(v080917)*

Go to RPM

ARP Crosswalk

Search for:

Search

Search ...

Filter by Rule Administrator

Select

Submit

# ARP Maintenance

The Administrative Rules and Procedures (ARP) is maintained by **University General Counsel.**

Inquiries should be directed to **gencounsel@nmsu.edu**

ARP History

# Policy Maintenance

The Administrative Rules and Procedures of NMSU Manual is maintained by University General Counsel. Inquiries should be directed to **gencounsel@nmsu.edu**.

## Proposals Under Review

Proposals for new and revised rules are available to NMSU stakeholders on the UGC SharePoint site.

UGC SharePoint Site

## Related Sites

University General Counsel

Regents Policy Manual

Business Procedures Manual

Other University Regulations

Board of Regents

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# Chapter 1 | Institutional Governance

arp.nmsu.edu/chapter-1

## Subsections in Chapter 1

- 1.10 – Procedures to Revise NMSU Policies and Rules

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 1 | Institutional Governance

**Rule Administrator:**
**Last Updated:** 06/16/2017

## Related

**Cross-Reference:**
**Revision History:**

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 1.10 – Procedures to Revise NMSU Policies and Rules

arp.nmsu.edu/1-10

## PART 1: INTRODUCTION

The Administrative Rules and Procedures of NMSU (ARP) are adopted pursuant to the authority granted in Regents Policy Manual (RPM) 1.10. This rule provides procedures by which policies, rules and procedures which govern the operation of the NMSU system will be developed, reviewed and officially adopted. As used in the ARP, the term "rule" also refers to and includes procedures. The RPM and the ARP may be viewed or downloaded from the web at rpm.nmsu.edu and arp.nmsu.edu respectively.

The regulatory activities of the NMDA, undertaken in accordance with the State Rules Act, NMSA 1978, § 14-4-1 et seq., are outside the scope of this rule.

Departmental or unit directives which relate only to internal unit operations are not subject to the development, review and approval requirements of ARP 1.10, and do not govern the activities of any individual, department or unit external to that unit. Internal unit rules and procedures must not violate nor be inconsistent with any provision of the RPM or the ARP.

## PART 2: AUTHORITY TO INITIATE POLICY OR RULE PROPOSALS

Any individual or NMSU entity may propose a new or revised policy or rule for consideration. This "Proposal Sponsor" is responsible for shepherding the proposal through the procedural steps as described in this rule.

## PART 3: POLICY OR RULE ADMINISTRATOR

Policy and rule proposals must specify *one* individual by position to serve as the policy or rule administrator. Typically, the policy or rule administrator is the person most involved in implementation of the policy or rule, has the greatest subject matter expertise, or supervises multiple departments that each have a role in administering the policy or rule.

## PART 4: SCOPE OF APPLICATION OF POLICY OR RULE

Each policy and rule must specify the scope of its application, in the details section of the on line RPM or ARP. While most policies and rules will apply NMSU system-wide, some may have a more limited scope (e.g. community colleges only, NMSU-Las Cruces campus only). If a proposal does not specify its scope, that determination will be made by UGC.

## PART 5: ROLE OF OFFICE OF UNIVERSITY GENERAL COUNSEL (UGC)

UGC will advise and assist proposal sponsors with initial proposal development and the approval process. UGC is responsible for updating and maintaining the official RPM and the ARP, including making these records available on the NMSU website and documenting the revision history for each policy and rule. UGC will make the forms and templates referenced by this rule available on its website. UGC may provide comment on any proposal at any stage in the policy development and formal approval process.

## PART 6: DEVELOPMENT, REVIEW AND APPROVAL PROCESS

Proposals for new or amended polices or rules are subject to the following:

### A. Preliminary Review by Policy Administrator and UGC

To initiate a proposal for a new or amended policy or rule, the proposal sponsor will send the proposal with a review track form (RTF), summarizing the proposal and rationale, to UGC and to the policy or rule administrator for initial review. Both the policy or rule administrator and UGC will provide preliminary advice and feedback to the proposal sponsor. UGC and/or the policy/rule administrator may elect to attach a comment memo to the RTF in support of or in opposition to the proposal. Throughout the review and approval process, the RTF together with the proposal and any and all comments by reviewers constitute the "proposal packet".

### B. Review Assignments

Following the preliminary review, upon approval from the proposal sponsor, UGC will transmit the proposal packet to members of the Assignment Advisory Group (AAG) for consideration at its next meeting. The AAG is comprised of the executive vice president

and provost, the chair and vice chair of the Faculty Senate, and the chancellor. Decisions of the AAG will be made by majority vote; with the chancellor's vote controlling in the event of a tie. A representative from UGC attends all AAG meetings to record its assignments on the RTF. At the meeting, the AAG will make review assignments as follows:

1. The AAG assigns the proposal to either the academic track or the administrative track for review and comment as outlined in Sections D, E and F below. Proposals within the legislative jurisdiction of the Faculty Senate under **RPM 1.70**, as well as other proposals where the AAG may determine that the Faculty Senate legislative process is appropriate, are assigned to the academic track for review. All other proposals are assigned to the administrative track. The assigned review track is noted on the RTF. Nothing in this rule regulates or alters the Faculty Senate process for review and adoption of Faculty Senate propositions.
2. The AAG also determines which NMSU entities will be notified of the proposal and the opportunity to review and make recommendations. The UGC representative notes the review assignments on the RTF.
3. Following the AAG meeting, UGC will post the proposals and RTF forms on a document sharing website (UGC SharePoint) open to all NMSU constituents.
4. Proposals for minor changes with minimal impact on NMSU operations and those which require urgent adoption may be immediately approved by the Chancellor on a provisional basis and assigned for subsequent direct review by only the UAC.

## C. Academic Track Proposals

In addition to the other approval procedures described in this rule, proposals assigned to the academic track are subject to the following rules:

1. The proposal sponsor is responsible for identifying at least one willing faculty senator sponsor (FS Sponsor) who will be responsible for coordinating the review and comment process described in Section F. below, and for communicating to UGC the actions taken by the Faculty Senate's committees and Faculty Senate at large. The Faculty Senate Chair and Vice-Chair will assist in this process as needed.
2. Faculty Senate propositions affecting NMSU System policies may be brought into the ARP 1.10 approval process before, during or after enactment in the Faculty Senate. For proposals initiated under this rule, the Faculty Senate may postpone its review until after the assigned review groups have had an opportunity to comment and the proposal sponsor has incorporated changes as deemed appropriate.
3. Unless the chancellor otherwise authorizes, an academic track proposal may not be submitted to the UAC for a second read or vote until approved by the Faculty Senate.
4. Academic track proposals will be submitted to UAC for second read in the form approved by Faculty Senate. If the UAC recommends veto or recommends amendment to a Faculty Senate approved proposal, then the Faculty Senate chair

and vice chair will decide whether to forward the proposition to the Chancellor for a decision as recommended by the UAC, or to withdraw the proposal for reconsideration by the Faculty Senate.

## D. Administrative Track Proposals

Policy and rule proposals assigned to the administrative track do not require formal faculty senate legislation, but may be referred by the AAG to the Faculty Senate for review and comment.

## E. Review and Comment Period

Both academic track and administrative track policy and rule proposals will be subject to a review and comment period, which will be conducted as follows:

1. Following the AAG meeting, UGC will submit the proposals to the UAC for first read, usually at the UAC's next meeting. The review and comment period commences from the date of the first read. If no review groups were assigned at by the AAG, then UAC may vote to shorten or waive the review and comment period and/or may vote to waive second read.
2. UGC notifies the leadership of the assigned review groups (as identified on the RTF) of the assignment and the availability of the proposal packet for review through the UGC SharePoint. The proposal sponsor or designee may arrange to present the proposal to any of the review groups, and review groups may request a presentation. The reviews may be conducted in any order. Each assigned review group with comments or recommended edits uploads the group's collective comments through the UGC SharePoint for consideration by the proposal sponsor and UGC. Any NMSU constituent may also upload comments to the UGC SharePoint.
3. The review period deadline will be calculated by UGC and noted on the RTF. The period will typically be approximately 6 six weeks in duration, unless a shorter review period is authorized at first read by UAC. Upon request and justification from any interested constituent, the review and comment period may be extended by the chancellor or by vote of the UAC.
4. At the conclusion of the review and comment period, the proposal sponsor and UGC will confer regarding suggested edits and changes to the proposal and will prepare a final version of the proposal. In the event the proposal is modified during or following the review and comment process, the revised version will be uploaded to the UGC SharePoint prior to release of the UAC agenda for the meeting in which the proposal will receive second read. Where an administrative track proposal is modified significantly, the UGC and Proposal Sponsor may agree to extend the review period and submit the proposal to the assigned review groups for a second review. UAC may also vote to direct the sponsor to submit the revised proposal for a second

review period. If re-review is required, UGC will notify the leaders of the assigned review groups.

5. Once the review period has concluded, for administrative track proposals, UGC will submit the proposal for inclusion on the agenda of the next UAC meeting for second read. When appropriate, the UAC agenda will indicate that substantive revisions were made to the proposal. For academic track proposals, UGC will notify the Faculty Senate chair and confer on the timing for Faculty Senate consideration.

## F. UAC Recommendation

All policy and rule proposals will be submitted for review and recommendation by the UAC. Absent a vote waiving the first or second read, the proposal will receive two readings at UAC following assignment by the AAG. After the review and comment period, the proposal will be placed on the UAC agenda for second read and a vote on whether to recommend approval to the chancellor, unless processed otherwise, in accordance with the procedures set forth above.

## G. Chancellor Approval or Veto; RPM and ARP Maintenance

1. Upon consideration of the recommendations of the UAC and other reviewing entities, the chancellor may approve or veto the proposal. The chancellor will indicate that decision in writing for record retention purposes. **RPM 1.70** will govern in any situation in which an academic track rule or policy proposal, formally approved as a faculty senate proposition, is vetoed or otherwise not acted upon by the chancellor.
2. The final proposal and the record of the Chancellor's decision to approve or veto will be maintained by UGC, or the library archives, for record retention purposes.
3. In the case of rule proposals, after approval by the chancellor, UGC will revise the ARP. UGC will also submit a summary of ARP revisions as an informational item for placement on the agenda for a regular meeting of the Board of Regents.
4. In the case of policy proposals, after approval by the chancellor, UGC will submit the proposal for placement on the meeting agenda for the Board of Regents. Upon approval by the Board of Regents, UGC will make the approved changes and additions to the RPM.

# Details

**Scope:** NMSU System
**Source:** ARP Chapter 1 | Institutional Governance

**Rule Administrator:** General Counsel

**Last Updated:** 05/08/2018

## Related

**Cross-Reference:**

**RPM 1.10 - NMSU System Policies and Procedures**

**RPM 1.70 - Shared Governance and the Role of the Faculty Senate**

**Revision History:**

05/08/18 Amendment approved by Chancellor
2017 Recompilation
12/07/15 Rule adopted by Chancellor
10/21/15 former Policy 1.10 replicated by Board of Regents as initial Rule 1.10

© 2017 New Mexico State University - Board of Regents

# Chapter 2 | Institutional Organization and Affiliated Entities

## Subsections in Chapter 2


- 2.10 – Administrative Unit Change Process
- 2.15 – Modifying Academic Units
- 2.44 – Associated Students of New Mexico State University ("ASNMSU")
- 2.50 – Affiliated Legal Entities
- 2.55 – NMSU Recognition of Affiliated Individuals

New Mexico State University
All About Discovery!

# 2.10 – Administrative Unit Change Process

arp.nmsu.edu/2-10

## PART 1: PURPOSE

Administrative units are those not within a college, a school or the library, without regard to geographical location.

This rule provides guidance relating to the organizational structure of administrative units including levels of management and supervisory span of control and provides the process to make an organizational change.

## PART 2: ORGANIZATIONAL GUIDELINES

### A. Levels of Management

Unless an exception justifies otherwise, administrative units should have no more than three levels of management. The chancellor, the executive vice president and provost, and the senior vice president for administration and finance are not counted as a management level (i.e. considered to be at Management Level 0). Direct reports to the chancellor and executive vice president and provost (deans, vice presidents, associate provosts, etc.) are considered Level 1 Managers.

### B. Supervisory Span of Control

Employees with managerial/supervisory responsibilities should have 8-12 direct reports.

## PART 3: PROCEDURES

### A. Initiation of Proposal

1. A head of an administrative unit or higher-level administrator may propose organizational changes (proposer).

2. The proposal for reorganization must clearly explain the rationale supporting the change, and justify any deviation from the above guidelines or any unit elimination or relocation. The proposal must include current and proposed organizational charts, to assist in clarifying how the involved unit(s) will be affected by the proposed change. Solid lines will indicate administrative reporting lines; dotted lines will indicate dual functional reporting lines. *See* Regents Policy 2.00, Organizational Charts and Reporting Relationships.
3. The cognizant vice president or equivalent must approve the proposal before it is submitted to the assistant vice president for human resource services.
4. Once the cognizant vice president or equivalent approves the proposal, the proposer submits it to the assistant vice president for human resource services.

## B. Review and Approval of Minor Changes

Basic organizational changes internal to the unit, which do not impact other units and do not deviate from the above guidelines or propose elimination or relocation of any administrative unit, will be reviewed by and become effective upon approval of the assistant vice president for human resource services.

## C. Review and Approval of Major Changes

An organizational change that is not consistent with the above guidelines or that proposes to eliminate or relocate an administrative unit is considered a major organization change and requires approval of the chancellor, after review and recommendation of the assistant vice president for human resource services. Prior to forwarding the proposal to the chancellor, the proposer will work with the assistant vice president for human resource services in an effort to maintain the integrity of the university's guidelines on levels of management and supervisory span of control, or to document justification for an exception, as well as to coordinate with other affected units. The proposed change becomes effective upon approval of the chancellor, who will notify the assistant vice president for human resource services.

## D. Implementation of Organizational Change

The assistant vice president for human resource services will notify the proposer and other affected units of any approved change. Once the proposal is approved, the proposer or appropriate unit director will complete and submit any required personnel action forms and revised organizational charts, as may be directed by the Office of Human Resource Services.

# Details

**Scope:** NMSU System
**Source:** ARP Chapter 2 | Institutional Organization and Affiliated Entities

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** Not Available

## Related

**Cross-Reference:**
RPM Appendix 2.10-A

ARP 18.10

**Revision History:**

4/10/2018 Ammendments approved by Chancellor

2017 Recompilation, formerly Rule 1.15

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 2.15 – Modifying Academic Units

arp.nmsu.edu/2-15

## PART 1: DEFINITION OF ACADEMIC UNIT

For the purpose of this rule, an academic unit is defined as any college, academic department or a library within the NMSU system.

## PART 2: REVIEWS/RECOMMENDATIONS AND APPROVALS REQUIRED

Any proposal to create, reorganize, relocate or eliminate an academic unit must be submitted for review and recommendation by the Faculty Senate, the Academic Deans Council, and the Chancellor to the Board of Regents for their consideration and action.

## PART 3: INITIATION OF PROPOSAL TO CREATE, REORGANIZE, RELOCATE OR ELIMINATE AN ACADEMIC UNIT

Proposals to create, reorganize, relocate, or eliminate an academic unit formally originate with a bill submitted to the Faculty Senate. The proposed legislation shall follow the procedure specified in Faculty Senate Constitution ARTICLE IX Propositions for Consideration of the Constitution of the Faculty Senate, except that no such proposal will be considered as emergency legislation.

## PART 4: EFFECTIVE DATE OF CHANGE

If approved, the creation of a department will be effective either January 1 or July 1 following the approval.

## PART 5: PROCEDURE FOR IMPLEMENTATION

After approvals from the appropriate authorizing bodies are obtained (*e.*, Faculty Senate, Academic Deans Council, etc.), the requesting department head/director must submit an Organization Change Request Form to the Office of Human Resource Services for processing. The form must be submitted with all relevant documentation attached no later than November 30 (for January 1 effective date) and May 31 (for July 1 effective date).

## PART 6: CREATION OF NEW COLLEGES

The creation of a new college is a decision based on the weighing of a number of criteria, including those below. An attitude of flexibility, reality, and organizational feasibility should be maintained in applying these criteria. The structure of the entire university, if a new college is formed, is an important consideration.

A. There should be a documented professional need for the college in the state and region.
    1. Rationale: This can be expressed through increasing student enrollment in programs that would be part of the new college, or an obvious need for professional graduates of the college as expressed by state and local groups who desire to hire these professions.
B. The proposed college should be of a recognized profession or group of disciplines.
    1. Rationale: The new college should give a desirable added professional recognition and development in the area of the new college.
C. At the outset, the new college shall have a minimum student enrollment of 250 with demonstrated ability to reach an enrollment of 500 within a 3- to 5-year period and a sufficient number of faculty to make it a viable administrative unit within the university.
    1. Rationale: After several development years, the quantity of faculty and students should be sufficient to lend themselves to a quality of organization, instruction, and service that will provide a viable thrust to the university. The quality and quantity of the faculty in the proposed college should be capable of maintaining with distinction an academic undergraduate and graduate program.
D. The university must be willing to make the commitment to furnish financial support for an additional college.

1. Rationale: This should include an adequate budget to provide for an expanding staff at the college level and funds for additional housing at a professional level.

## PART 7: CHANGING A DEPARTMENT OR GROUP OF DEPARTMENTS INTO A SCHOOL

The proposed school should incorporate more than one area of specialization or should offer more than one degree (may include interdisciplinary cooperative efforts or more than one department). The proposed school should be an administrative and support unit with undergraduates and graduate students and an established, nationally recognized teaching and research program. The administrative head of a school may be called a chair, a head, or a director, but this person's administrative level will be equal to that of a department head. The legislation must contain a clearly stated and convincing justification for the name change, and must have support of the department and college faculty and administration.

## PART 8: NEW ACADEMIC UNIT

There should be a documented academic/educational need for the proposed new academic unit, including but not limited to, an increasing student enrollment or significant employment opportunities for graduates in that field. The proposed new academic unit should be consistent with the mission of the university and the college in which it will be located. There should be sufficient faculty and resources to staff the proposed new academic unit.

## PART 9: RELOCATION OR REORGANIZING AN ACADEMIC UNIT

Proposals to relocate an academic unit must meet all of the following criteria:

A. The relocation will produce a more homogenous set of programs and departments in both colleges.
B. The relocation will enhance the professional identity of the program or department involved
C. The relocation will not cause undue hardship for other academic units.
D. The faculty and administrators directly affected are in agreement.

E. Such a change will better serve the university community, clients, and/or the mission of the university.
F. Address the transfer of resources, courses taught, and the faculty rank and tenure (or years to tenure) of those individuals being transferred.
G. If a unit is being relocated to another college, there should be significant support from the unit being transferred and the unit receiving the transferred personnel/resources.

## PART 10: ELIMINATION OF AN ACADEMIC UNIT

Proposals to eliminate an academic unit must meet the following criteria:

A. A significant decline in enrollment, either as measured by number of majors or student credit hours.
B. The resources are needed by programs or departments with much higher enrollment or student credit hour production.
C. In evaluating a proposal to eliminate an academic unit, the unit's contribution in the areas of teaching, research, and service shall be considered.

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 2 | Institutional Organization and Affiliated Entities

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 06/12/2019

## Related

**Cross-Reference:**
**ARP 4.68 - Course Curriculum Changes**

**Appendix – ARP 2.15-A – Academic Units (Procedures for Changes)**

**Revision History:**

06/12/2019 Amendment approved by Chancellor
2017 Recompilation, formerly Rule 6.05

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 2.44 – Associated Students of New Mexico State University (“ASNMSU”)

arp.nmsu.edu/2-44

## PART 1: OVERVIEW OF STUDENT GOVERNMENT AT NMSU

In accordance with Regents Policy Manual (RPM) 2.44, all students enrolled in programs at the NMSU Las Cruces campus and who pay the ASNMSU Fee are members of the Associated Students of New Mexico State University (“ASNMSU”). The ASNMSU government is divided into the executive, legislative, and judicial branches. Members of the legislative branch (student senate) are elected; the offices of president and vice president are elected. Members of the judicial branch are nominated by the president of ASNMSU and confirmed by the ASNMSU Senate.

The ASNMSU Constitution and Law Book establish the organization and responsibilities of ASNMSU. ASNMSU funds must be expended and accounted for, and activities conducted, in accordance with university policies and administrative rules and procedures. ASNMSU supervises the budgeting and expenditure of: all activity monies allocated to ASNMSU; the Continuing Diversity Board, the College Councils, the Student Advocacy Board and other similar boards and committees. ASNMSU accounts are managed by the ASNMSU Comptroller’s Office, under the supervision of the university’s Office and Administration and Finance.

The dean of students and the Student Legal Aid Program attorney serve as advisors to ASNMSU. The vice president for student success, in cooperation with student leaders and other appropriate university officials provide advice and guidance regarding university policy, rules and procedures as necessary to achieve the goals and objectives of ASNMSU and the university.

## PART 2: LEADERSHIP SCHOLARSHIPS

Students who meet the criteria below and who are either: (a) elected to ASNMSU student senate in a campus-wide, student body election, (b) elected by their respective college councils as a semester-long appointee to fill a vacant ASNMSU student senate position, or (c) appointed to serve as the student regent on the NMSU Board of Regents, are eligible each semester to receive a financial award amounting to at least 75 percent of the dollar value of an academic semester in-state tuition and fees scholarship. This financial award is subject to the conditions and processes governing all financial aid awards administered by the Office of Financial Aid and Scholarship Services.

**A. Criteria for Initial and Continuing Award of Leadership Scholarship:**

1. Undergraduate students must have an overall grade point average of at least 2.5 and, in the semester previous to taking office, have successfully completed 15 or more graded credits with at least a 2.5 grade point average.
2. Graduate students must have an overall grade point average of at least a 3.5 and have, in the semester previous to taking office, successfully completed 9 or more credits.
3. Undergraduate students must be currently enrolled in at least 15 credits and graduate students in at least 9 credits to remain eligible for existing and future awards.

**B. Criteria for Renewal Award of Leadership Scholarship**:

1. Undergraduate students must have an overall grade point average of at least 2.5, have successfully completed 15 credit hours the previous semester, and be currently enrolled in at least 15 credits.
2. Graduate students must have an overall grade point average of at least 3.5, have successfully completed 9 or more credit hours the previous semester, and be currently enrolled in at least 9 credits.

**C. Removal from Office**: Removal from the office for cause pursuant to the Law Book, prior to completion of the semester, voids any award made for that semester and holds the student liable for repayment of the amount awarded.

## PART 3: ASNMSU FUNDS

The following applies to clarify the permissible uses of ASNMSU funds.

A. **Purpose of ASNMSU Endowment**: The ASNMSU Endowment was established to provide stable funding for chartered student organizations.

(*See* https://campusactivities.nmsu.edu/charter-forms/) The income earned from this endowment may be allocated to chartered organizations to provide consistent funding, independent of the financial condition of the ASNMSU.

B. **Deposits**: Funds will be deposited to the endowment fund each semester through an allocation of required fees. The amount allocated each year will be determined through the required fee approval process, with a minimum annual allocation of $25,000.
C. **Endowment Management**: The ASNMSU Endowment will be a permanently treated endowed fund of the NMSU Foundation, Inc. The principal shall be invested and reinvested in a common investment trust fund for endowments in accordance with the investment policies of the Foundation. The principal shall remain permanently invested and must not be withdrawn without approval from the Board of Regents. Income earned from the ASNMSU Endowment shall annually be transferred to the ASNMSU account in the student account business office according to NMSU Foundation operational protocols.
D. **Withdrawals**: Subject to Section E. below, the ASNMSU senate, by a simple majority, may withdraw funds from the ASNMSU Account to allocate funds to chartered student organizations and to NMSU course participants to assist with related expenses (e.g. competitions representing NMSU) for the benefit of students. This shall be done through the normal appropriations process.
E. **Transfers**: The ASNMSU senate, by a 3/4 vote, may transfer money out of the ASNMSU Account to the Activity Surplus Account or the Major Expense Fund, providing the July 1 balance of the ASNMSU Account remains at a minimum of $20,000. An amount no greater than the July 1 balance minus $20,000 can be transferred. This shall be done through normal appropriation methods.

## PART 4: ASNMSU CONTRACTS AND SERVICES

The executive staff of ASNMSU, under the direction of the ASNMSU elected officials, serve the NMSU student body by providing not only a wide variety of resources, but also activities (e.g. concerts, annual bonfire, guest speakers) and services (e.g. Crimson Cab, airport shuttle, legal aid) for the benefit of students. To make such activities and services available, as a university department, ASNMSU must comply with applicable university policies, rules and procedures governing their operations, including but not limited to the university's policies, rules and procedures governing non-discrimination, procurement and contract

signature authority, mileage and per diem for university related travel, sales and solicitation on campus, free expression. See **https://arp.nmsu.edu/** and **https://af.nmsu.edu/bpm/**.

## Details

**Scope:** NMSU System

**Source:** ARP Administrative Rules and Procedures Chapter 2 | Institutional Organization and Affiliated Entities

**Rule Administrator:** VP Student Success and Enrollment Management

**Last Updated:** 03/13/2019

## Related

**Cross-Reference:**
ARP 2.44 Associated Students of New Mexico State University (“ASNMSU”)

**Revision History:**
03/13/2019 approved by Chancellor; 05/10/2019 approved by Board of Regents

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 2.50 – Affiliated Legal Entities

arp.nmsu.edu/2-50

## A. Arrowhead Center, Inc. (f/k/a NMSU Technology Transfer Corporation, Inc.)

In order to properly focus the development of research technology, the Board of Regents authorized the establishment of the Arrowhead Center. Inc., under the Research Park Act, as a not-for-profit corporation to assist and foster the development and marketing of selected university technology and intellectual properties. Members of the corporation include two regents, the chancellor, the executive vice president and provost, the vice president for research, and the senior vice president for administration and finance. The chief operating officer will be the vice president for research.

## B. New Mexico State University Research Park Corporation, Inc.

The purpose of the Research Park is to serve as an important adjunct to the university and its programs of instruction, research, and service and to provide resources for the overall benefit of the institution and its constituencies. Any leasing or management arrangements must be under conditions which protect the interests of the university and are approved by the Board of Regents. The board authorized the president to establish, on behalf of the board, the NMSU Research Park Corporation, Inc., as a not-for-profit corporation under the University Research Park Act. The initial board of directors of the NMSU Research Park Corporation, Inc., shall be two regents determined by the board, the Chancellor, the executive vice president and provost, the vice president for research, and the senior vice president for administration and finance. The purpose of the corporation is to develop the Arrowhead Research Park. The board has approved the Operating Policy Agreement between the Board of Regents and the Board of Directors of the NMSU Research Park Corporation.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 2 | Institutional Organization and Affiliated Entities

**Rule Administrator:** Executive VP and Provost

**Last Updated:** Not Available

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rules 2.68 and 2.92

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 2.55 – NMSU Recognition of Affiliated Individuals

arp.nmsu.edu/2-55

## PART 1: PURPOSE

This rule authorizes but does not require NMSU to grant affiliated status, also referred to as a designation, to individuals who have a formal association with the university other than employee or student, which association significantly benefits NMSU or significantly supports the NMSU mission. Criteria are provided for the designations of Affiliated Student, Volunteer Affiliate, Contractor Affiliate, Affiliated Scholar and Affiliated Faculty, as well as applicable terms and conditions and the types of privileges for each designation. NMSU does not provide its designated affiliates with monetary compensation or entitlement to privileges other than those expressly provided in this rule or in an affiliation agreement consistent with this rule.

## PART 2: AFFILIATED STUDENTS

A. **Criteria**: To be designated as an Affiliated Student, the individual must be a student who is regularly enrolled at another post-secondary institution of higher learning which has either a physical presence on NMSU's campus or the right to use NMSU facilities pursuant to a contractual affiliation agreement. Examples include individuals present at NMSU's campus or facilities for participation in a clinical or experiential learning opportunity or to utilize services offered by way of a contractual agreement between the student's institution and NMSU.
B. **Process**:
    1. When a group of students is granted Affiliated Student status based on a contract for services between NMSU and another post-secondary institution of higher learning, approval of the contract by the executive vice president and provost is required, and in such cases, the terms of the contract shall supersede any conflict with the terms of this rule.
    2. For other proposals to enter into an Affiliation Agreement that would

allow one or more students of another post-secondary institution to engage in unpaid clinical or other experiential learning at NMSU, approval by the executive vice president and provost or designee is also required and is subject to the following requirements:

a. The sponsoring unit initiates the process by preparing a memorandum in support of a request for approval of an individual as an Affiliated Student, including any relevant Affiliation Agreement as an attachment. The memorandum in support will include the following: (1) a description of the individual student's proposed assignments or activities, (2) a clear statement of justification explaining why the affiliation is in the best interests of NMSU, and (3) unless a formal affiliation agreement provides otherwise, the period of affiliation must end no later than the next June 30th.
b. The memorandum in support is routed for approvals by the sponsoring unit, through the cognizant dean or associate vice-president, the director of accreditation, the office of university general counsel, the senior vice president for administration and finance, to the executive vice president and provost.
c. The executive vice president and provost transmits the approval or disapproval to the sponsoring unit and the cognizant dean.
d. Upon receipt of the approved memorandum, the sponsoring NMSU unit issues a Letter of Affiliated Student status to each Affiliated Student, as evidence of the designation, and also advises relevant NMSU offices that the Affiliated Student is entitled to specified privileges.

C. **Terms and Restrictions**: The Affiliated Student designation is subject to the following terms and restrictions:

1. Affiliated Students must be assigned to a specific sponsoring NMSU unit with a designated advisor within that unit.
2. To avoid confusion, Affiliated Students must utilize the title "Affiliated Student" and must not represent themselves to anyone, on or off campus, as an NMSU student.
3. Individual Affiliated Students must satisfy any compliance training requirements applicable to students at NMSU. Sponsoring units are responsible for ensuring that this training is completed.
4. Affiliated Student status is a privilege granted at the discretion of the university and may be withdrawn at any time by the vice president of student success and enrollment management in coordination with the appropriate NMSU administrator, subject to the terms of any applicable affiliation agreement or other contract.

5. All individual Affiliated Student designations terminate automatically on June 30 of each year, unless the executive vice president and provost has approved a different date in a written agreement or advance renewal request submitted by the sponsoring department.

D. **Privileges**: Affiliated Students shall be afforded only the privileges set forth in the Letter of Affiliated Status and/or in an affiliation agreement or other contract.

## PART 3: VOLUNTEER AFFILIATES

A. **Criteria**: Individuals who voluntarily provide support services to NMSU programs, events and initiatives with approval from a sponsoring unit will be designated as a Volunteer Affiliates, subject to the terms of this rule. Sponsoring units which utilize Volunteer Affiliates are responsible for compliance with the requirements of this rule.

B. **Process**: NMSU units requesting to utilize volunteers (sponsoring unit) must obtain approval of the relevant dean or vice president and the assistant vice president for human resource services or designee by submitting a memorandum in support of a Volunteer Plan (Plan). The memorandum in support must identify the specific activity, program or initiative for which volunteer(s) will be utilized, and a description of the tasks or activities that the volunteer(s) will be asked to perform, including whether they will be permitted to operate NMSU vehicles or equipment, transport others in their private vehicle(s) or will be working with minors. Once the memorandum in support of Plan is approved by the dean or vice president and the assistant vice president for human resource services, a copy shall be submitted to the executive director of environmental health safety and risk management. Issues or concerns identified by that office must be discussed with the sponsoring unit and may require modification of the Plan.

C. **Terms and Restrictions**: The use of Volunteers is subject to the following terms and restrictions:

1. No current employee, including student employees, will be permitted to volunteer within the unit in which they work or for any program or event sponsored by that unit. Violations of this restriction can result in FLSA violations and serious consequences.
2. Sponsoring units must assign each Volunteer to an employee within that unit to supervise the activities of the Volunteer.
3. The sponsoring unit is responsible for obtaining signed Volunteer Agreements from each Volunteer and for maintaining the Volunteer

Agreements in their administrative office. The Volunteer Agreement template is available from the University General Counsel website.

4. Volunteers must satisfy any compliance training requirements deemed applicable to Volunteers, as determined by the assistant vice president for human resources. Sponsoring units are responsible for ensuring this training is completed.
5. Prior to commencing volunteer work, a determination will be made by Human Resource Services, in consultation with the sponsoring unit regarding the need for a criminal background check, based on the responsibilities and activities the volunteer will participate in or be exposed to. Prospective Volunteer Affiliates will be told in advance whether or not they will be required to authorize NMSU to obtain a criminal background report and whether they will be required to pay for it. For Volunteer Affiliates who will be permitted to operate NMSU motor vehicles, transport individuals in their private vehicle, or work with minors, the sponsoring units must require a satisfactory criminal background check prior to the Volunteer Affiliate commencing activities in the unit. In such cases, Human Resource Services will assist the unit in obtaining the report, and must approve after reviewing the report.
6. Volunteer Affiliate status is granted at the discretion of NMSU and may be withdrawn upon notice, without specification of cause by the assistant vice president for human resource services or designee, after consultation with the sponsoring unit. Volunteer Affiliates have no legal right to Volunteer Affiliate status at NMSU, and the decision of NMSU to withdraw such status shall be final.
7. All Volunteer Plan approvals continue indefinitely, unless the Plan states otherwise, needs to be modified by the sponsoring unit based on changed circumstances, or the assistant vice president for human resource services requests submission of an updated plan.

D. **Privileges**: Volunteer Affiliates are protected by NMSU's tort liability coverage with respect to the Volunteer Affiliate's authorized activities undertaken within the course and scope of the Volunteer Affiliate's authorized activities on behalf of the university. Sponsoring units may provide recognition and express the unit's appreciation for the Volunteer Affiliate's efforts consistent with university policy. Upon written request of the sponsoring unit to the associate vice president of administration and finance or designee, and at the discretion of this official, Volunteer Affiliates may be granted other privileges such as facility access and the opportunity to purchase parking permits at an affiliate rate. No other special privileges are afforded to Volunteer Affiliates beyond the opportunity to support

NMSU in achievement of its mission.

## PART 4: CONTRACTOR AFFILIATES

A. **Criteria**: Employees and authorized agents of NMSU contractors may be designated as a Contractor Affiliate when performance of the contract involves a physical presence on an NMSU campus or facility, and necessitates specific privileges or facility access related to NMSU property.
B. **Process**: The designation as a Contractor Affiliate must be requested by the head of the NMSU unit responsible for the contract, coordinated with management for the contractor, and approved by the director of Procurement Services. The NMSU unit seeking such a designation should provide a memorandum in support which provides a description of the individual's proposed assignments or activities on NMSU premises, and the proposed privileges, with justification, to be granted to the individual upon approval of the Contractor Affiliate designation. Once the request is approved, the sponsoring NMSU unit must issue a Letter of Contractor Affiliate status to each individual afforded that status, as evidence of the designation and also advise relevant NMSU offices that said Contractor Affiliate is entitled to specified privileges.
C. **Terms and Restrictions**: The designation as a Contractor Affiliate is subject to the following terms and restrictions:
    1. Each Contractor Affiliate must be validated by management of their respective contractor as either an employee or authorized agent of the business entity which has a valid contract to provide goods or services on NMSU premises.
    2. The designation as a Contractor Affiliate is granted at the discretion of NMSU and may be withdrawn at any time by the director of procurement services. No individual has any legal right to be designated as a Contractor Affiliate, and a decision of the sponsoring unit or the director of procurement services to withdraw an affiliate designation shall be final.
    3. Individual Contractor Affiliates must satisfy any compliance training requirements deemed applicable to contractors or subcontractors at NMSU. The head of the NMSU unit responsible for the contract will be responsible for ensuring that this training is completed.
    4. The Contractor Affiliate designation ends automatically when the individual ceases to be an employee or an authorized agent of a contractor a valid ongoing contract to provide goods or services on NMSU premises, or upon termination of the NMSU contract with the

individual's employer, whichever occurs first.

D. **Privileges**: Contractor Affiliates shall be afforded only those privileges granted by NMSU in a written document.

## PART 5: AFFILIATED SCHOLARS

A. **Criteria**: Individuals who voluntarily collaborate with NMSU personnel on academic and scholarly projects that benefit NMSU in the areas of teaching, research, or extension services.

B. **Process**: All proposals to designate an individual as Affiliated Scholar require approval by the executive vice president and provost.
   1. The unit proposing this academic designation (sponsoring unit) initiates the process by completing and submitting the Affiliated Scholar Request form for approval through the relevant academic dean, vice president or community college associate vice president for academic affairs to the executive vice president and provost.
   2. The Affiliated Scholar Request form provides: (1) a statement regarding whether the individual will be a volunteer or working as an employee of another specified entity which has a contractual relationship with NMSU, (2) a description of the individual's proposed assignments or activities, (3) a clear statement of justification explaining why the affiliation is in the best interests of NMSU, (4) identification of the proposed responsible supervisor (who must be an NMSU employee) within the sponsoring unit, and (5) the appointment end date which must be no later than one year from the date the affiliation was commenced or renewed, as appropriate.
   3. The executive vice president and provost or designee transmits the approval or disapproval of the proposal for processing to the appropriate dean, vice president or community college associate vice president for academic affairs, as appropriate.

C. **Terms and Restrictions**: Affiliated Scholar status is subject to the following terms and restrictions:
   1. No current employee will be granted Affiliated Scholar status.
   2. All Affiliated Scholar must be assigned to a specific sponsoring academic unit with an identified responsible supervisor within that unit.
   3. To avoid confusion regarding the individual's status, Affiliated Scholar will utilize the title "Affiliated Scholar". If listed on web pages or other departmental publications, a notation will explicitly state that Affiliated Scholar are not employees.

4. Affiliated Scholar must satisfy the NMSU compliance training requirements applicable to Affiliated Scholar status, as determined by the assistant vice president for human resource services.
5. Affiliated Scholar shall not provide academic oversight or serve as instructors of record for academic courses.
6. Affiliated Scholar may not be designated as the supervisor of record for any NMSU employee, including student employees (time sheets, leave approvals, etc). Affiliated Scholar may not serve in the role of "Acting" department head, director or equivalent, nor be granted any signature authority within or on behalf of NMSU.
7. Except when a written contract explicitly provides otherwise, the affiliated status continues at the will of the university and may be terminated at any time without specification of cause.
8. Affiliated Scholar designations terminate automatically on the end date specified in the electronic Personnel Action Form (e-PAF) or applicable agreement, if any, unless the sponsoring unit proposes renewal of the designation by submitting an e-PAF with justification.

D. **Privileges**: Affiliated Scholar will be afforded the following privileges:
1. NMSU issued identification card indicating the title of "Affiliated Scholar" and including the affirmation "Affiliated Scholars are not employees of NMSU."
2. Library usage equivalent to that permitted for NMSU Faculty.
3. NMSU parking privileges equivalent to that offered to NMSU Faculty, upon purchase of a permit at an affiliate rate.
4. NMSU email account used for the benefit of NMSU, subject to compliance with applicable NMSU policy, which recognizes the public's right to inspect public records, generally including the content of email.
5. Affiliated Scholar may be granted keys and access cards for NMSU facilities upon request of the sponsoring unit and approval of the cognizant dean. Sponsoring units are responsible for recovery of keys and access cards upon termination of the affiliation arrangement.
6. Affiliated Scholar may be granted access to NMSU electronic systems and data on an as needed basis, upon request of the sponsoring unit, submission of any confidentiality, privacy or use restriction agreement as may be required by the Information Communication Technology Department, and approval by the cognizant dean or vice president.
7. Other privileges, subject to payment of fees, as may be approved by the senior vice president for administration and finance.

# PART 6: AFFILIATED FACULTY

A. **Criteria**: Individuals granted Affiliated Faculty status must have the minimum credentials required to serve as a faculty member at NMSU (*See* **ARP 6.50 – Faculty Credentials Required of NMSU Instructors of Record**), and must provide a significant benefit to NMSU in the areas of teaching, research, or extension services. These individuals act either as individual volunteers or as employees of another entity under a contractual relationship with NMSU.

B. **Process**: All proposals to designate an individual as Affiliated Faculty require approval by the executive vice president and provost. The Affiliated Faculty designation will be assigned to an individual only in accordance with the following requirements:
   1. The unit proposing this academic designation (sponsoring unit) initiates the process by completing and submitting the Affiliated Faculty Request form for approval through the relevant academic dean, vice president or community college associate vice president for academic affairs to the executive vice president and provost.
   2. The Affiliated Faculty Request form provides: (1) a statement regarding whether the individual will be a volunteer or working as an employee of another specified entity which has a contractual relationship with NMSU, (2) a description of the individual's proposed assignments or activities, (3) a clear statement of justification explaining why the affiliation is in the best interests of NMSU, (4) identification of the proposed responsible supervisor (who must be an NMSU employee) within the sponsoring unit, and (5) the appointment end date which must be no later than one year from the date the affiliation was commenced or renewed, as appropriate.
   3. The executive vice president and provost or designee transmits the approval or disapproval of the proposal for processing to the appropriate dean, vice president or community college associate vice president for academic affairs, as appropriate.

C. **Terms and Restrictions**: Affiliated Faculty status is subject to the following terms and restrictions:
   1. No current employee will be granted Affiliated Faculty status.
   2. All Affiliated Faculty must be assigned to a specific sponsoring academic unit with an identified responsible supervisor within that unit.
   3. To avoid confusion regarding the individual's status, Affiliated Faculty will utilize the title "Affiliated Faculty" and will not be permitted to

utilize an academic rank designation. Affiliated faculty will not be listed among NMSU faculty in the university catalog. If listed on web pages or other departmental publications, a notation will explicitly state that Affiliated Faculty are not employees.

4. Affiliated Faculty must satisfy the NMSU compliance training requirements applicable to Affiliated Faculty status, as determined by the assistant vice president for human resource services.
5. Affiliated Faculty may provide academic oversight and serve as instructors of record for academic courses.
6. Affiliated Faculty may not be designated as the supervisor of record for any NMSU employee, including student employees (time sheets, leave approvals etc). Affiliated Faculty may not serve in the role of "Acting" department head, director or equivalent, nor be granted any signature authority within or on behalf of NMSU.
7. Except when a written contract explicitly provides otherwise, the affiliated status continues at the will of the university and may be terminated at any time without specification of cause.
8. Affiliated Faculty designations terminate automatically on the end date specified in the e-PAF or applicable agreement, if any, unless the sponsoring unit proposes renewal of the designation by submitting an e-PAF with justification.

D. **Privileges**: Affiliated Faculty will be afforded the following privileges:
   1. NMSU issued identification card indicating the title of "Affiliated Faculty" and including the affirmation "Affiliated Faculty are not employees of NMSU."
   2. Library usage equivalent to that permitted for NMSU faculty.
   3. NMSU parking privileges equivalent to that offered to NMSU faculty, upon purchase of a permit at an affiliate rate.
   4. NMSU email account used for the benefit of NMSU, subject to compliance with applicable NMSU policy, which recognizes the public's right to inspect public records, generally including the content of email.
   5. Affiliated Faculty may be granted keys and access cards for NMSU facilities upon request of the sponsoring unit and approval of the cognizant dean. Sponsoring units are responsible for recovery of keys and access cards upon termination of the affiliation arrangement.
   6. Affiliated Faculty may be granted access to NMSU electronic systems and data on an as needed basis, upon request of the sponsoring unit, submission of any confidentiality, privacy or use restriction agreement as may be required by the Information Communication Technology Department, and approval by the cognizant dean or vice

president.

7. Other privileges, subject to payment of fees, as may be approved by the senior vice president for administration and finance.

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 2 | Institutional Organization and Affiliated Entities

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 11/13/2018

## Related

**Cross-Reference:**

**Revision History:**
11/13/2018 Amendment approved by Chancellor
10/09/2018 Amendment approved by Chancellor
07/10/2018 Adopted by Chancellor

© 2017 New Mexico State University - Board of Regents

# Chapter 3 | Ethics, Equity and Equal Opportunity

## Subsections in Chapter 3


- 3.00 – Ethical Conduct Required in all NMSU Operations
- 3.01 – Duty to Report Ethical Concerns; Retaliation Prohibited
- 3.02 – Principles, Definitions and Examples relating to Conflict of Interest/Commitment
- 3.03 – Continuing Duty to Disclose Conflicts; Paths Toward Remedies
- 3.05 – Faculty or Staff as Students
- 3.06 – Relatives and Significant Others as Students
- 3.07 – Participation in Committees
- 3.08 – Requests Made to Subordinates
- 3.09 – COI: Sales and Solicitations
- 3.10 – COI: Prohibitions in Procurement
- 3.11 – Conflicts of Interest/Commitment in Sponsored Activities
- 3.12 – Procedures to Resolve COI Relating to Sponsored Activities
- 3.13 – Conflicts of Interest Arising from Consensual Relationships
- 3.14 – Non-Work Related Use of University Resources
- 3.25 – Discrimination, Harassment and Sexual Misconduct on Campus
- 3.26 – Gender Equity and Statement of Principles
- 3.27 – Support for Nursing Mothers
- 3.39 – Procedures to Use Preferred Name
- 3.40 – Process for Disability Accommodation


Go to RPM

ARP Crosswalk

Search for:

Search ...

Search

## ARP Contents

Chapters 1 – 5

Chapters 6 – 10

Chapters 11 – 15

Chapter 16 – 18

Appendices

Filter by Rule Administrator

- 3.45 – Assistive, Service, and Companion Animals on University Premises
- 3.63 – Freedom of Expression
- 3.70 – Academic Freedom
- 3.80 – Prohibition of Bullying, Hazing and Hostile Misconduct (Non-Discriminatory)

Select

Submit

## ARP Maintenance

The Administrative Rules and Procedures (ARP) is maintained by University General Counsel.

Inquiries should be directed to gencounsel@nmsu.edu

ARP History

## Policy Maintenance

The Administrative Rules and Procedures of NMSU Manual is maintained by University General Counsel. Inquiries should be directed to gencounsel@nmsu.edu.

## Proposals Under Review

Proposals for new and revised rules are available to NMSU stakeholders on the UGC SharePoint site.

UGC SharePoint Site

## Related Sites

University General Counsel

Regents Policy Manual

Business Procedures Manual

Other University Regulations

Board of Regents

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 3.00 – Ethical Conduct Required in all NMSU Operations

arp.nmsu.edu/3-00

Inherent within the responsibility for educating the future leaders of our society is the obligation to adhere to the highest ethical standards and principles. New Mexico State University is committed to maintaining the highest standards of ethics and integrity in all of its academic and administrative operations, by promoting such standards among its regents, administrators, faculty, staff, students and others acting on behalf of the university (including those acting on behalf of university controlled entities) and by striving to ensure a level of accountability appropriate for a public institution.

**A**. Members of the university community are expected to exercise and demonstrate personal and professional honesty and to respect the rights, values and contributions of others.

**B**. Members of the university community are expected to be aware of and comply with relevant laws, regulations, contract requirements and university policies and procedures. An unethical practice should never be condoned on the grounds that it is "customary" or that it serves a worthy goal.

**C**. Individuals with access to confidential, proprietary or private information must never use or disclose such information except where authorized or legally obligated to do so.

**D**. All members of the university community are responsible for avoiding, where possible, real or potential conflicts of interest and commitment between personal and professional responsibilities, including relationships that have the appearance of a conflict.

**E**. The university's interests should be foremost in all official decision making and employees and others acting on behalf of the university shall remove themselves from decision-making roles that involve them in any personal capacity or which involve their friends or family members.

**F**. All individuals acting on behalf of the university have a responsibility to ensure that funds and other assets received are used in an ethical manner. Assets of the university (including personnel), whether tangible or intangible, may not be used for illegal purposes or personal gain.

**G**. Members of the university community shall strive to present all information, including financial information and research data and results, completely and accurately.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 3 | Ethics, Equity and Equal Opportunity

**Rule Administrator:** No Administrator Listed

**Last Updated:** Not Available

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rules 3.19.10 and 3.19.20

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 3.01 – Duty to Report Ethical Concerns; Retaliation Prohibited

arp.nmsu.edu/3-01

Individuals who have concerns about the propriety of a situation or about the conduct of a university employee or someone acting on behalf of the university, are expected to consult with appropriate university officials (that is, the person to whom the individual whose conduct is in question directly reports or, in the case of someone acting on behalf of the university, the chair of the Committee on Conflicts of Interest in Sponsored Activities, or when a regent is involved, the Chancellor). Confidentiality about individuals reporting violations of these standards will be maintained whenever possible and employees shall be free from retaliation for voicing concerns.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 3 | Ethics, Equity and Equal Opportunity

**Rule Administrator:** No Administrator Listed

**Last Updated:** Not Available

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 3.19.30

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 3.02 – Principles, Definitions and Examples relating to Conflict of Interest/Commitment

arp.nmsu.edu/3-02

## PART 1: PRINCIPLES

### A. Duty to Recognize and Resolve Conflicts

Both individual members of the university and entities controlled by or affiliated with the university must recognize and resolve conflicts of interest and/or commitment. Such conflicts may compromise or have the appearance of compromising the integrity of university-related activities and have unforeseen effects on those activities. Even if there is no perceptible effect on the activity, any apparent inability of the university to avoid and/or resolve conflicts of interest invites outside criticism and supervision. Such supervision could result in the loss of the university's ability to decide its own direction. Conflicts of interest may be primarily financial or may involve the use of one's position and powers for non-monetary self-interest. Such conflicts may be personal or relate primarily to the institution or its constituent organizations or involve an individual whose behavior is inextricably linked with her or his official position, such as an upper-level administrator or a member of the Board of Regents. In any of these situations, the general principles remain the same; 1) disclose always, 2) manage when possible; and 3) prohibit when necessary and where management is not possible.

#### 1. Disclose Always

It is vitally important that individuals provide a clear picture of their activities and complete forms accurately and in a factually correct manner so that potential or actual conflicts of interest can be identified. Similarly, if situations change, disclosure needs to be made within 15 working days (*see* ARP 3.03). The university is under no obligation to manage, as opposed to prohibit, a conflict of interest disclosed by someone other than the individuals primarily involved.

#### 2. Manage when possible

The vast majority of conflicts can and are managed through removing at least one of the parties from the conflict situation. For example, an individual might recuse him or herself from the review process on a proposal, have another individual become principal investigator or abstain from participating in a particular promotion or tenure situation. The preference of the institution will be to provide management solutions to a conflict of interest that will remove or isolate the conflict. However, such management is not possible when disclosure is not made.

### 3. Prohibit when necessary and where management is not possible

In some few cases, it will not be possible to manage a conflict and the individual or organization will have to withdraw from the activity. In some cases, university policy or rules and/or state or federal law allows no solution other than prohibition. For example, no member of the Board of Regents may act as a vendor of goods or services to the university (Board of Regents Bylaws and Section 21-1-35, NMSA 1978).

## PART 2: DEFINITIONS AND ILLUSTRATIONS

The definitions and examples listed below are intended to aid university employees and appropriate review bodies in identifying conflicts of interest. Identifying conflict situations and documenting steps taken to manage these conflicts serve to protect the employees and the institution, as well as ensure that the university will remain eligible for government sponsored research.

### A. Conflicts of Commitment

Full-time faculty and staff of New Mexico State University owe their primary professional allegiance and their primary commitment of time and intellectual efforts to the education, research and service programs of NMSU. Conflicts of commitment occur whenever the time devoted to external activities adversely affects a faculty or staff member's capacity to undertake NMSU responsibilities, including maintaining appropriate time and accessibility as defined by the requirements of the job.

#### 1. Examples of conflicts of commitment may include but are not limited to

a. Maintaining full-time paid employment at another institution/organization that interferes with work performance and/or attendance. (*See* **ARP 6.90 – Outside Employment or Activities**)
b. Excessive (not more than one day per week, on average) private consulting or advisory committee service, even if it is in the public interest or pro bono.
c. Taking on a significant management role in a non-NMSU entity as part of consulting activities.

d. Holding an elective political office.

2. Examples of permitted activities may include but are not limited to

a. Faculty consulting for private companies not in excess of one day per week during that portion of the year when drawing an academic or summer salary (*See* **ARP 6.92 Faculty Consulting** and **ARP 6.91 Staff Consulting**).
b. Serving on advisory committees of public or private concerns for the benefit of the university, even if an honorarium is paid for such activities, as long as it does not interfere with work performance and attendance.
c. Acting as an editor or reviewer for a professional society journal.
d. Preparing chapters, textbooks or monographs related to teaching, research or service activities, even if paid royalties as an author or editor.
e. Occasional lectures, colloquia or seminars to disseminate results of university -related teaching, research or service activities.
f. Holding an office in a professional society.

## B. Conflicts of Interest

Conflicts of interest occur when there is a competition between a member of the university community's private interests and the member's professional obligations to the university such that an independent observer might reasonably question whether the member's professional actions or decisions are determined by any considerations other than the interests of the university.

1. Examples of conflicts of interest may include but are not limited to

a. The presence of a real or apparent incentive for the faculty or staff member to decide an issue in such a way as to have the opportunity for a financial interest in the result.
b. A faculty or staff member having a significant financial interest in a concern that is in direct competition with the interests of NMSU.
c. Procuring goods or services for NMSU from a concern in which an NMSU regent, administrator, faculty or staff member or member of their family has a significant financial interest.
d. Using NMSU resources or staff for non-NMSU projects or granting external entities access to the same, in more than an incidental way, unless permission has been given and the activity benefits the university.
e. Reviewing proposals or bids from family members, or those with whom the faculty or staff member has a close, professional relationship, or from an entity in which the faculty or staff member has a significant financial or management interest.

2. Examples of permitted activities may include but are not limited to

a. Serving as principal investigator or co-investigator on a multi-institutional project where NMSU is a participating member.
b. Permitting access to NMSU resources as part of licensing agreements or as part of statutory permitted activities.

## C. Investigator

Investigator means the principal investigator or co-investigator and any other person at the university who is responsible for the design, conduct or reporting of a sponsored activity which has been funded or proposed for funding. For purposes of this Rule and the disclosure requirements set forth herein, the term "investigator" includes the investigator's family members.

## D. Member of the University Community

Regents, students, employees and others affiliated with, or acting as agent of, the university.

## E. Relationship

For purposes of this Rule, the term "relationships" shall mean and include the following

1. Family, as defined by NMSU, *e.*, legal spouse, domestic partner, parent (including in-laws, adoptive, step or surrogate), child, brother (including half , step and in-law), sister (including half, step and in-law), grandparent, grandchild, legal guardian. The term "family" shall also include the legal spouses of any of the individuals named above.
2. Close personal friends;
3. Business partners and corporate professional associates.

## F. Significant Financial Interest

Significant financial interest means anything of monetary value owned or payable to a faculty or staff member, including but not limited to

1. Salary, royalties, commissions, consulting fees or honoraria and/or any other form of compensation for services which is
    a. Directly or indirectly paid or payable to the faculty or staff member by an entity other than the university or an affiliate or instrumentality of the university; and
    b. In excess of $10,000 per year when aggregated for the faculty or staff member and his or her family members.
2. Equity interests such as stocks and stock options and other ownership interests which:

a. Exceed $10,000 in value or represent more than five percent ownership interest in any single entity, when aggregated for the faculty or staff member and his or her family members; and
b. Do not comprise widely held, publicly available, diversified investment funds over which the faculty or staff member does not and has no ability to exercise control; and
c. Are not held in a blind trust where the faculty or staff member has no knowledge of trust assets.

3. Intellectual property rights, such as patents and copyrights and royalties from those rights.
4. Student stipends, scholarships, fellowships, work/study grant monies and/or any other form of financial aid paid or payable by an entity other than the university to a faculty or staff member or a member of his or her family.
5. Gifts or donations of goods or services to a faculty or staff member or a member of his or her family; provided, however, that gifts of a nominal value ($100.00 or less aggregated in a year) do not comprise a significant financial interest.

### G. Sponsored Activity

A sponsored activity is a research, training, service or other type of project with identifiable objectives and/or deliverables for which external funding, material support or other compensation, in the form of a grant, gift, contract, cooperative agreement or other formal arrangement, is being requested or has been received.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 3 | Ethics, Equity and Equal Opportunity

**Rule Administrator:** No Administrator Listed

**Last Updated:** Not Available

## Related

**Cross-Reference:**
(*See Also* Rule 3.75 Non Work Related Use of University Resources, 3.92 Sales and Solicitation, 4.50 Outside Employment and/or Activities, 4.60 Public Affairs Participation, 5.32 Consulting - Faculty, 7.05 Educational Opportunities for Employees and Their Families, and 8.25 Professional Staff Consulting)

**Revision History:**

2017 Recompilation, formerly Rules 3.20.10 and 3.20.20 – 3.20.28

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 3.03 – Continuing Duty to Disclose Conflicts; Paths Toward Remedies

arp.nmsu.edu/3-03

It is the responsibility of all persons covered by this Rule to report any real, apparent or potential conflict of interest or commitment to their supervisors. The primary means of doing this is through the completion of the Conflict of Interest Disclosure Form upon hire and on an annual basis, with disclosure updates submitted on the basis of changes in circumstance. Additional policies, as set forth in **ARP 3.11**, are applicable to conflicts arising from sponsored activities but are based upon the annual disclosure requirement.

## PART 1: PROCEDURE

Each person covered by this Rule is required to complete, sign and submit a Conflict of Interest Disclosure form upon hire with any NMSU entity; as new conflicts arise during employment by NMSU; and on an annual basis as requested by the Office of Human Resource Services. Completed forms will be reviewed and approved by the applicable supervisor (and only require next level supervisor review as defined below). Disclosure forms submitted containing no conflicts require only one level of review and approval. Disclosure forms submitted containing one or more (real or perceived) conflicts of interest require two levels of review and approval. In addition, a plan to manage or eliminate the conflict(s) must be submitted. If a conflict of interest or commitment exists for which no management plan is possible, the supervisor is required to recommend a plan of action. Conflicts of interest and commitment that have been submitted may be reviewed by the Committee on Conflicts of Interest in Sponsored Activities as necessary. Maintenance of the form is the responsibility of the Office of Human Resource Services.

## PART 2: REMEDIES FOR CONFLICTS

There are two basic conditions that influence the path taken to remedy a conflict of interest or commitment. These may be summed up in the questions: 1) did the conflict arise as part of a sponsored activity? and 2) who disclosed the conflict? These questions must be asked together, as a conflict may be self-disclosed or disclosed by others and may or may not arise as part of a sponsored activity.

A. The first question that determines disposition of conflicts of interest and/or commitment is whether or not the conflict arises from a sponsored activity.
    1. The treatment of conflicts in non-sponsored activities will follow normal personnel procedures as outlined in **ARP 3.25** Part 1 and **ARP 10.01 – Due Process** , drawing informally on the advice of the Committee on Conflicts of Interest in Sponsored Activities as desired.
    2. Resolution of conflicts arising from sponsored activities shall be governed by the procedures set forth in **ARP 3.11.**
B. The second question is whether the individual(s) involved in the conflict made the disclosure prospectively or as part of a timely update, or whether someone else has brought the conflict to the university's attention.
    1. In cases disclosed by the individual(s) having the conflict, the university will generally try to manage the conflict in a manner agreeable to the parties involved and in agreement with applicable university policies and state and federal laws. The person(s) identified as having the conflict may elect to manage the conflict by participating in measures that will guard the integrity of the situation. Such measures require the approval of the relevant dean, vice president or vice provost or (in the case of sponsored activities, the Committee on Conflicts of Interest in Sponsored Activities). The person(s) involved may choose or be told to withdraw from the activity or situation that creates the conflict. In some cases, the supervisor and appropriate dean, vice president or vice provost and, if applicable, the Committee on Conflicts of Interest in Sponsored Activities, shall approve the action taken.
    2. When someone other than the individual(s) involved in the conflict brings an existing conflict to the attention of the university, the university is under no obligation to try to remedy the conflict and may require that the individual(s) withdraw from the activity or situation creating the conflict. In addition, the individual(s) may be required to repay monies that have been obtained in a situation involving a conflict of interest or commitment. Other sanctions up to and including termination of an individual's employment, may be imposed; subject to the appeals process outlined in **ARP 10.50** (faculty) or **ARP 10.20** (staff).

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 3 | Ethics, Equity and Equal Opportunity

**Rule Administrator:** No Administrator Listed

**Last Updated:** 07/20/2010

## Related

**Cross-Reference:**
**ARP 3.11 - Conflicts of Interest/Commitment in Sponsored Activities**

**ARP 3.25 - Discrimination, Harassment and Sexual Misconduct on Campus**

**ARP 10.01 - Due Process**

**Revision History:**
2017 Recompilation, formerly Rule 3.20.15
07/20/2010 Amendment ratified by Board of Regents

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 3.04 – Nepotism

arp.nmsu.edu/3-04

Members of a family may be employed by the university except when one individual will directly supervise the work of the other. If one member of the family is to be employed in the same department as another, approval shall be obtained from the executive vice president and provost prior to any offer of employment. Under no circumstances will a supervisor evaluate a family member.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 3 | Ethics, Equity and Equal Opportunity

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** Not Available

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 3.20.32

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 3.05 – Faculty or Staff as Students

arp.nmsu.edu/3-05

When a university faculty or staff member enrolls in a program to earn a degree at the university, a potential for conflict of interest may arise as a result of the dual role as student and as a faculty or staff member. Persons in this status who are seeking degrees or certificates must demonstrate that the potential for conflict of interest will not compromise the quality of their program of study. Approval of cognizant department heads and deans will be required. In any case, supervisors should never have the responsibility of grading individuals whom they supervise.

In the case of graduate degrees or certificates, such programs must also be approved on a case-by-case basis by the dean of the Graduate School with the concurrence of the executive vice president and provost. When appropriate, the dean may confer with the Graduate Council about the potential for conflict of interest in such programs. The graduate dean may require a specific representative on such a graduate committee, possibly including off campus representatives, as a condition for approving programs.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 3 | Ethics, Equity and Equal Opportunity

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** Not Available

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 3.20.33

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 3.06 – Relatives and Significant Others as Students

arp.nmsu.edu/3-06

Faculty of NMSU may not place themselves or be placed by others in situations in which they supervise, evaluate, teach or grade the work of members of their families enrolled in courses offered by the university main campus and/or its community college campuses unless the cognizant department head and dean or equivalent approves a plan to manage the conflict. The same regulation applies to individuals with whom the faculty member is in a consensual relationship (See ARP 3.13). Supervisors of faculty need to adopt the same procedure to manage situations in which the faculty they supervise teach members of the supervisors' family.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 3 | Ethics, Equity and Equal Opportunity

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** Not Available

## Related

**Cross-Reference:**
ARP 3.13

**Revision History:**

2017 Recompilation, formerly Rule 3.20.34

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 3.07 – Participation in Committees

arp.nmsu.edu/3-07

A conflict of interest can exist during the execution of routine committee service activities when they involve family members of close professional associates or friends. Normally, recusal from the committee's decision is the preferred way to manage these conflicts.

Examples of conflicts of interest in committee service work might include but are not limited to:

**A**. Serving on employment selection committees when a family member (as defined above), friend or close professional associate from outside the department concerned is applying for the position.

**B**. Serving on selection committees or promotion and tenure committees when a person who is or has been involved in a grievance relating to the committee member is applying for promotion or tenure.

**C**. Serving on the promotion and tenure committee when a family member is applying for promotion or tenure.

**D**. Serving on the graduate committee for a family member of a close professional associate.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 3 | Ethics, Equity and Equal Opportunity

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** Not Available

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 3.20.35

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 3.08 – Requests Made to Subordinates

arp.nmsu.edu/3-08

In order to prevent individuals from being placed in a position of conflict between the needs of the institution and those of supervisors, persons in a position of supervisory authority over another individual may not ask that individual to perform duties that benefit the supervisor or a family member in a way that does not directly relate to the official duties of the employee or supervisor. An example of such a request would be for a supervisor, including a faculty member, to ask that a subordinate nominate the supervisor or anyone else for an award. Another example might be suggesting that a subordinate purchase something to support a school activity of the supervisor's child.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 3 | Ethics, Equity and Equal Opportunity

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** Not Available

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 3.20.36

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 3.09 – COI: Sales and Solicitations

arp.nmsu.edu/3-09

Sales and solicitations by individuals or organizations on university property that result in personal financial gain are expressly prohibited except as noted in ARP 14.92 Sales and Solicitation.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 3 | Ethics, Equity and Equal Opportunity

**Rule Administrator:** Senior VP for Administration and Finance

**Last Updated:** Not Available

## Related

**Cross-Reference:**
ARP 14.92

**Revision History:**

2017 Recompilation, formerly Rule 3.20.37

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 3.10 – COI: Prohibitions in Procurement

arp.nmsu.edu/3-10

No member of the Board of Regents or any employee, either directly or indirectly, shall sell to the university any supplies, equipment, services or insurance or receive any commission or profit on account thereof, and all such persons are prohibited from being parties directly or indirectly to any such contract. The university shall strictly comply with all state statutes and federal regulations to include, but not limited to, NMSA 1978 Section 21-1-35 and NMSA 1978 Section 13-1-190. Further guidance may be found under Section 4 of the *NMSU Business Procedures Manual.*

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 3 | Ethics, Equity and Equal Opportunity

**Rule Administrator:** Director Procurement Services

**Last Updated:** Not Available

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 3.20.38

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 3.11 – Conflicts of Interest/Commitment in Sponsored Activities

arp.nmsu.edu/3-11

Actual or perceived conflicts of interest or commitment that arise from Sponsored Activities are of special concern because they almost always involve or implicate entities outside of the university community (and thus are more prone to public scrutiny), are frequently governed not only by university policies but also by governmental conflict-of-interest regulations and are subject to special disclosure requirements administered by the vice president for research. The principles, definitions and policy or rule statements set forth in RPM 3.00 Conflict of Interest – Ethical Conduct and ARP 3.02 Principles, Definitions and Examples relating to Conflicts of Interest/Commitment apply also to this rule, ARP 3.11 Conflicts of Interest and Commitment in Sponsored Activities. Specific guidance on conflicts of interest in sponsored activities is set forth below.

## PART 1: CONFLICTS THAT ARISE FROM FINANCIAL INTERESTS

Actual or perceived conflicts of interest or commitment in sponsored activities generally arise when an investigator or family member has a significant financial interest in, or a consulting arrangement with, a private business concern or other organization that is or may be affected by the sponsored activity. Some examples of this kind of conflict situation include, but are not limited to:

A. Engaging for sponsored research a business firm in which the investigator or family member involved in the research project has a significant financial interest.
B. Purchasing major equipment, instruments, materials or other items for sponsored research from a private firm in which the investigator involved in the research has a significant financial interest.
C. Engaging a private consulting firm in connection with sponsored research where the investigator involved in such research has a consulting arrangement with or significant financial interest in a competing consulting firm.
D. Acceptance by an investigator involved in a sponsored research project of gratuities or special favors from a firm or other organization with which the university does business in connection with the sponsored research.

E. Utilization of privileged information acquired by an investigator in connection with sponsored research for personal gain, or to economically benefit a business concern in which the investigator or family member has a significant financial interest.
F. Sponsorship of research by a business firm in which an investigator involved in the research has a significant financial interest.
G. In the absence of disclosure and express sponsor approval, employment of, or an offer of employment to, a family member of an investigator involved in sponsored research by either the sponsor of, or an organization engaged in, the research project.
H. Receipt by a family member of an investigator involved in a sponsored activity of a scholarship, fellowship, work/study benefit, or other financial aid, which is funded by or through the sponsored activity.

## PART 2: CONFLICTS THAT ARISE FROM PERSONAL INTERESTS

An actual or perceived conflict of interest or commitment may also arise from situations that may have a significant impact on an investigator involved in sponsored research, even though the situation does not involve a significant financial interest. These non-financial conflict situations frequently involve personal interests or relationships that are or may be affected by sponsored activities. Some examples are:

A. An investigator's involvement in a sponsored activity where the investigator or a family member of the investigator acts as a non-paid advisor to, or board member of, the sponsoring entity.
B. An investigator's involvement in a sponsored activity in which a family member is engaged as a human subject, student researcher or other non-paid participant.
C. An investigator's involvement in a sponsored activity that includes testing and validation of new technology developed by a family member of the investigator.

## PART 3: OTHER CONFLICT SITUATIONS

It is important to realize that any number of other kinds of conflict situations can arise in the context of sponsored projects, some of which may be undeterminable at the outset of the project. Investigators involved in sponsored activities must be cognizant of the need to monitor project developments in order to identify potential or perceived conflict situations as they arise and to disclose them or facilitate their disclosure as soon as possible. Examples of other kinds of conflict situations might include:

A. An investigator's involvement in a sponsored research project becomes so extensive during the course of the project that other obligations to the university are neglected, thus creating a conflict of commitment.
B. An investigator's responsibility for multi-disciplinary sponsored research project gives rise to nepotism issues when a family member employed in a different university department falls under the investigator's supervisory authority in the context of the project and no disclosure of and express sponsor approval for such arrangement is in place.
C. An investigator's loyalty to a family member (*See* **ARP 3.02** Part 2, Section E Relationships), close personal friend or a professional associate employed elsewhere results in sponsored research being conducted elsewhere which could and ordinarily would be conducted within the university, to the disadvantage of the university and its legitimate interests.

## PART 4: GOVERNMENTAL REGULATIONS PERTAINING TO CONFLICTS

Any research or other project that is sponsored or funded by a governmental agency is likely to be subject to agency regulations or guidelines covering conflicts of interest as well as university policies.

A. The federal Office of Management and Budget has promulgated rules, applicable to all federally funded grants and agreements with institutions of higher education, which define conflicts of interest and the financial thresholds applicable to them and which require grant recipients to maintain written standards of conduct governing real or apparent conflicts of interest. These rules are found in **OMB Circular No. A-110, Sec. 42**. Most federal departments and independent agencies have formally adopted these rules and codified them in various sections of the **Code of Federal Regulations**. A few agencies have adopted supplementary conflict of interest guidelines applicable to their own grant administration procedures.
B. Two agencies, the National Science Foundation and the Public Health Service, have established specific financial disclosure requirements and disclosure review and conflict of interest management procedures applicable to grants from those agencies. The guidelines and requirements set forth in this rule ARP 3.11 Conflicts of Interest and Commitment in Sponsored Activities are intended to implement and comply with these federal conflict of interest rules, so that compliance with this university Rule will generally assure compliance with governmental requirements.
C. Investigators are, however, urged to familiarize themselves with the conflict of interest rules adopted by agencies sponsoring their research activities.

## PART 5: DUTY TO DISCLOSE ACTUAL/POTENTIAL CONFLICTS; PROCEDURES

A. Each person engaged in an area of sponsored research and covered by this Rule is responsible for determining whether any actual, potential or apparent conflict of interest or commitment exists.
B. The principal investigator of each specific sponsored activity, in consultation with all other participants in the activity, is responsible for determining whether any possible conflicts exist with respect to such activity and for so indicating on the New Mexico State University Proposal Award Form submitted to the Office of the Vice President for Research at the time approval for such activity is sought.
C. If any possible conflicts are identified, the person or persons having the conflicts should attempt to resolve them in advance of submitting the activity proposal for review and approval, but in any event must concurrently disclose them for review by the Conflict of Interest Committee during the pre-award process.
D. Disclosure shall be made by submitting the individual's current annual Conflict of Interest Disclosure Form with the approval documentation provided to the Office of the Vice President for Research.
E. If a new conflict of interest or commitment arises during the course of sponsored work, the person having such conflict must submit an updated disclosure form.
F. The Office of the Vice President for Research shall furnish the forms disclosing possible conflicts to the Committee on Conflicts of Interest in Sponsored Activities.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 3 | Ethics, Equity and Equal Opportunity

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** Not Available

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rules 3.21. – 3.21.25

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 3.12 – Procedures to Resolve COI Relating to Sponsored Activities

arp.nmsu.edu/3-12

## PART 1: REVIEW AND RESOLUTION OF CONFLICTS OF INTEREST RELATING TO SPONSORED ACTIVITIES

### A. Committee on Conflicts of Interest in Sponsored Activities

The Committee on Conflicts of Interest in Sponsored Activities shall be a standing committee consisting of the vice president for research, the director of a college/unit research center or institute director designated by the vice president for research and three faculty members appointed by the vice president for research and approved by the Faculty Senate. One member of the committee shall not be involved in sponsored research.

### B. Committee Authority and Functions

1. The Committee on Conflicts of Interest in Sponsored Activities shall meet as necessary to review all disclosure statements and decide in each instance whether:
    a. There is no potential conflict of interest; or
    b. There was a conflict of interest, which has since been resolved; or
    c. There is a conflict of interest that has not been resolved.
2. In making these determinations, the committee, at its discretion and under conditions of confidentiality, may seek the advice of additional persons.
3. The committee will exercise care at all times to ensure confidentiality and to protect the safety and privacy of persons involved in or affected by the review.
4. If the committee determines that there is an unresolved conflict of interest:
    a. The appropriate dean, vice president or vice provost will be notified;
    b. The committee will work with the affected principal investigator and other key personnel, including affected departmental personnel, to determine how the conflict should be managed so the sponsored activity can proceed if at all possible; and
    c. Acceptance of an award for the affected sponsored activity will be delayed pending resolution of the conflict.

5. In order to effectively manage or remedy a conflict of interest, the committee may impose conditions or restrictions to control, reduce or eliminate the possibility that the conflict will affect the objectivity of the sponsored research or other activity. Examples of conflict of interest management options include:
    a. Public disclosure of the conflict.
    b. Divestiture of conflicting financial interests or placement in a blind trust.
    c. Escrow of a conflicting equity interest until appropriate triggering conditions are met.
    d. Disqualification of the conflicted individual from management, supervisory or other affected responsibilities for the sponsored activity.
    e. Prohibition of the conflicted individual's involvement in affected aspects of the research or other activity.
    f. Severance of business relationships that create the conflict.
    g. Monitoring of research or other affected activities by independent reviewers.

## PART 2: APPEALS FROM DECISION CONCERNING CONFLICTS OF INTEREST ARISING FROM SPONSORED ACTIVITIES

A sponsored activity may not be accepted in the event that the committee is unable to fashion a remedy for a specific conflict of interest and the conflict remains unresolved. In such case, the Committee on Conflicts of Interest in Sponsored Activities will notify the appropriate dean, vice president or vice provost. Appeal of the decision to not accept an award or to accept it subject to conditions in furtherance of a specific management plan, may be made to the executive vice president and provost, who will consult with the principal investigator and the Committee on Conflicts of Interest in Sponsored Activities prior to making a final determination. A final determination on appeal of a conflict of interest decision will be made within 30 days of the date the appeal was taken. A final determination on appeal shall be achieved before the university accepts a sponsored activity.

## PART 3: RETENTION OF RECORDS CONCERNING CONFLICTS OF INTEREST IN SPONSORED ACTIVITIES

The Office of the Vice President for Research will maintain records of all conflict of interest disclosures and all actions taken with respect to such disclosures for either:

A. A period of three years following the final close-out of the affected sponsored activity or the resolution of any governmental action relating to such sponsored activity or the underlying conflict of interest, whichever comes later; or

B. As otherwise provided by law. The original disclosure forms will be retained electronically by the Office of Human Resource Services as part of the employee's official personnel file.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 3 | Ethics, Equity and Equal Opportunity

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 07/20/2010

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rules 3.21.30 – 3.21.40

07/20/10 Amendment ratified by Board of Regents

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 3.13 – Conflicts of Interest Arising from Consensual Relationships

arp.nmsu.edu/3-13

## A. Rule Statement

It is the Rule of the university that employees with direct teaching, supervisory, advisory or evaluative responsibility over other employees, students and/or student employees recognize and respect the ethical and professional boundaries that must exist in such situations. Consensual relationships can create conflicts of interest that impair the integrity of academic and employment decisions. Such relationships also contain the potential for exploitation of the subordinate employee, student or student employee and the possible professional or academic disadvantage of third parties, and can subject both the university and individuals to liability. Therefore, the university strongly discourages consensual relationships between supervisors and subordinates, teachers and students, and advisors and students. Should such a relationship develop, the faculty member, supervisor or advisor has the obligation to disclose its existence to an immediate supervisor and cooperate in making alternative arrangements for the supervision, evaluation, teaching, grading or advising of the employee, student or student employee.

## B. Scope

This Rule applies to all NMSU employees including faculty, staff and student employees.

## C. Definitions

1. **A consensual relationship** is a mutually acceptable, romantic and/or sexual relationship.
2. **A conflict of interest** arises when an individual with the authority and responsibility to evaluate the work or
performance of an employee, student or student employee acquiesces or engages in a consensual relationship
with the employee or student.

3. **An employee** is defined as any individual, whether paid or not, who is listed and active on the university's
   Human Resources Management System. This includes all faculty, staff and student employees to include
   affiliated faculty and associated employees.

## D. Reporting Responsibility

In the event a conflict of interest exists arising from a consensual relationship, the individual in the supervisory, teaching or advisory position shall immediately notify the supervisor about the relationship and cooperate with the supervisor in making arrangements necessary to resolve the conflict of interest. Notification of the consensual relationship shall be provided in writing and signed by both parties involved.

## E. Supervisor Responsibility

A supervisor who is notified shall take immediate steps to alter the conditions that create the conflict of interest caused by the relationship. In most instances, this will be accomplished by providing an alternative means for the supervision, teaching, advising and/or evaluation of the subordinate employee, student or student employee. A supervisor who becomes aware of a consensual relationship that has not been declared shall investigate and take action as appropriate and required by this Rule. Both parties in the relationship and the supervisor shall sign the resolution. All documentation will be maintained in a departmental file.

## F. Failure to Report or Cooperate

Employees in positions of authority who enter into or continue consensual relationships without reporting them, or who fail to cooperate in efforts to eliminate the conflict of interest resulting from a consensual relationship may be subject to disciplinary action, which may include counseling, letters of warning, reprimand, suspension or termination. In the event that a complaint of sexual harassment or sexual misconduct is reported by the subordinate party regarding an unreported relationship, there will be no presumption that the relationship was consensual in nature.

## G. Grievance of Disciplinary Actions

Disciplinary actions imposed for violations of this Rule may be grieved or appealed by the individual who is disciplined pursuant to existing university policies and procedures.

## H. Assistance

Questions regarding this Rule should be directed to the assistant vice president for human resource services.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 3 | Ethics, Equity and Equal Opportunity

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** Not Available

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 3.22

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 3.14 – Non-Work Related Use of University Resources

arp.nmsu.edu/3-14

## PART 1: PURPOSE

A. **Public Trust**: This rule serves to remind the university's employees that its resources are entrusted to them by the public, government entities, and private donors, and to be mindful of the public's perception of how the university conducts its business. As set forth in the university's Business Ethics Handbook, employees should strive to conduct themselves consistent with the highest ethical principles, to avoid any action that may be viewed as a violation of the public trust in the use of these resources, and to act responsibly in order to preserve and safeguard university resources. These resources include employee time, facilities, supplies, and equipment such as telephones, fax machines, and computers.

B. **No Expectation of Privacy**: This rule also provides notice to employees that internal or external audit or other needs may require examination of university resources or services and they should not expect such uses to be free from inspection. Employees do not have a right or expectation to privacy as it relates to information or data contained on or accessed through university equipment or resources.

## PART 2: GUIDELINES

The following guidelines will be applied taking into consideration factors such as the nature of the use, reasonableness, time, detriment or cost to the university, employment history and employee work habits. Employees should consult with their supervisors in advance if they are unsure of the propriety of a certain action or practice. Violations of this policy may be reported through the university's confidential reporting line at https://secure.ethicspoint.com/domain/en/default_reporter.asp The use of the university's resources and services for non-work related purposes is permissible in very limited circumstances:

A. The cost to the university is negligible.

B. The use does not interfere with an employee's obligation to carry out university duties in a timely and effective manner. Time spent on non-work related use of university resources is not considered to be university work time.
C. The use does not undermine the use of university resources and services for official purposes, nor violate any university policy, rule or procedure, nor violate state or federal law.
D. The use neither expresses nor implies sponsorship or endorsement by the university.
E. The use does not involve the viewing, displaying, downloading, printing, procuring, or transmitting of sexually explicit material or any other material that would violate university policies or rules/procedures, or the law, including but not limited to, those relating to sexual harassment, fraud, hostile workplace, obscenity, libel, defamation, or hate/violent misconduct.
F. University resources are not to be used for non-university business, marketing or political activities.
G. The NMSU internal mail delivery system is not for delivery of non-work related material. University accounts must not be charged for mailing personal or non-university business material.
H. NMSU telephones and other communications equipment are to be used for NMSU business, defined as NMSU mission related activities. NMSU recognizes the occasional need to make or receive a personal call, and no direct payment for personal local telephone calls is expected. Because the administrative costs associated with reimbursement have not proven to be cost effective, individuals are expected to use their personal cell phones for long distance calls or to pay directly (e.g. through use of prepaid calling cards) for all personal long-distance calls made on university telephones. In a personal situation requiring prompt action, the university expects the employees to use prudent judgment and in the event the individual does not have other means to charge a long distance telephone call, the unit manager should be notified so that the call may be identified on the monthly bill for the employee to reimburse the university. Unit managers are expected to address patterns of unprofessional and inappropriate personal use of the phone or other university-owned communications equipment.
I. NMSU vehicles must not be used for personal or non-university business purposes. *See also* **ARP 12.66 – Vehicle Assignments**; **ARP 12.65 – Fleet Asset Management Program**; and the Vehicle Use Procedures.

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 3 | Ethics, Equity and Equal Opportunity

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 03/12/2020

## Related

**Cross-Reference:**
**BPM 9, Mobile Communication Device Usage**

**ARP 12.65 - Fleet Asset Management**

**ARP 12.66 - Vehicle Assignments**

**Revision History:**
03/12/20 Amendment approved by Chancellor (also repealing ARP 15.18 – Telephone Equipment Use)
2017 Recompilation, formerly Rule 3.75
07/20/2010 Amendment approved by Board of Regents
07/29/2009 Amendment ratified by Board of Regents
04/14/2009 Amendment approved by Administrative Council

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 3.25 – Discrimination, Harassment and Sexual Misconduct on Campus

arp.nmsu.edu/3-25

## PART 1: STATEMENT OF NON-DISCRIMINATION AND EQUAL OPPORTUNITY

New Mexico State University (NMSU) is dedicated to providing equal opportunities in areas of employment and academics without regard to age, ancestry, color, disability, gender identity, genetic information, national origin, race, religion, serious medical condition, sex, sexual orientation, spousal affiliation or protected veteran status as outlined in federal and state anti-discrimination statutes (See the **NMSU Notice of Non-Discrimination and Equal Opportunity**). As a federal contractor, NMSU's affirmative action program also supports this effort. The following is a listing of applicable federal and state laws:

A. Age Discrimination in Employment Act of 1967
B. Americans with Disabilities Act of 1990, as amended
C. Civil Rights Act of 1991
D. Title IX of the Education Amendments of 1972
E. Executive Order 11141
F. Executive Order 11246
G. Equal Pay Act of 1963
H. Pregnancy Discrimination Act
I. Section 504 of the Rehabilitation Act of 1973, as amended
J. Title VI and VII of the Civil Rights Act of 1964
K. Vietnam Era Veterans Readjustment Act
L. Genetic Information Non-discrimination Act of 2008
M. NM Human Rights Act, 1969
N. Violence Against Women Act of 1994, as Reauthorized

## PART 2: OFFICE OF INSTITUTIONAL EQUITY (OIE)

The Office of Institutional Equity (OIE) is designated as the office that receives

and processes internal discrimination complaints within the NMSU system. The NMSU OIE website will include office address, location and contact information: **http://equity.nmsu.edu/**

## PART 3: TITLE IX NOTICE

A. **Notice of Non-Discrimination:** NMSU does not discriminate on the basis of sex in education programs and activities; Title IX of the Education Amendments Act of 1972 is a federal law that states: *"No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."*
B. **Title IX prohibits**:
    1. Sexual misconduct (including sexual violence)
    2. Sex discrimination (gender bias)
    3. Sexual harassment
    4. Retaliation
C. **Scope of Application/Responsible Employees:** Title IX applies to students, staff and faculty. Title IX requires reporting from "responsible employees", defined to include:
    1. Those with authority to address and remedy sex-based discrimination and harassment; and/or
    2. Those with responsibility to report sexual misconduct to a supervisor and OIE; and/or
    3. Those who a student would responsibly believe have such authority or obligation.
D. **Off Campus Conduct:** In cases involving harassing speech, assessing Title IX applicability to off-campus behavior will require a two-prong test:
    1. Does NMSU have control over the harasser (subject to our rules) and
    2. Does NMSU have control over the context of the harassment (on our property, in our programs, on land we lease or control, or at events we sponsor)
E. NMSU will reserve the option to take off-campus jurisdiction in cases involving sexual violence, sexual assault, or rape that involve students or employees.
F. The Chancellor will designate an administrator to serve as the NMSU Title IX Coordinator, whose duties will include overseeing all Title IX complaints and identifying and addressing systemic problems that arise during the review of such complaints.
G. Inquiries concerning the application of Title IX may be referred to the NMSU Title IX Coordinator or the Office of Civil Rights of the United States

Department of Education. The NMSU OIE website will include the NMSU Title IX Coordinator's name, office address, telephone number, and e-mail address as well as the link to the Office for Civil Rights.

## PART 4: ELIMINATION OF SEXUAL VIOLENCE NOTICE

NMSU does not tolerate any sexual violence to include intimate partner violence which can be defined as any physical, sexual, or psychological harm against an individual by a current or former partner or spouse of the individual. Such sexual violence covers domestic violence, dating violence and stalking. The Violence Against Women Act, as Reauthorized in 2013 (VAWA) complements and is a companion to Title IX and assists with the response to and prevention of sexual violence in higher education. The Act provides a framework for educational institutions to address incidents of sexual violence occurring on-campus, on public property within and adjacent to campus, and at non-campus properties like off-campus student organization housing, campus sponsored events and remote classrooms. Specifically, VAWA outlines provisions for the following:

A. **Transparency**: Students or employees reporting victimization will be assisted by campus authorities in reporting a crime to law enforcement and with obtaining or enforcement of no contact directives or restraining orders. Employees and students should be aware of bystander intervention which includes taking action to prevent harm or intervene when there is a risk of domestic violence, dating violence, sexual assault, or stalking against another person. Individuals who make reports will be provided options and assistance in changing academic, living, transportation and working situations if requested and reasonably available. Further, a resource guide will be provided which includes information on counseling, health, local advocacy and legal service agencies. The range of any possible disciplinary actions or sanctions and procedures may be found in the *NMSU Student Social Code of Conduct* and/or the *Administrative Rules and Procedures of NMSU*.
B. **Accountability**: Provide a fair investigation and resolution of complaints. Additionally, both accuser and accused may be accompanied during proceedings by an advisor of their choice and both parties will receive written outcomes of disciplinary hearings at the same time.
C. **Education**: Conduct initial and ongoing awareness programming for students and employees that addresses the issues of primary prevention, definition of consent, reporting, bystander intervention and risk reduction.

Persons with inquiries about the application of VAWA may contact any of the following: Office of Institutional Equity (OIE) Executive Director; the NMSU Police Department Victim's Assistance Coordinator or the Dean of Students. The NMSU OIE website will include the most current names, office address, telephone number and e-mail address as well as the link to the Office for Civil Rights.

## PART 5: DISCRIMINATION POLICY

A. **Commitment to Elimination of all forms of Discrimination**: NMSU is committed to providing a place of work and learning free of discrimination and harassment on the basis of a person's age, ancestry, color, disability, gender identity, genetic information, national origin, race, religion, serious medical condition, sex, protected veteran status, sexual orientation, or spousal affiliation. Where a violation of NMSU policy, rules or procedures is found to have occurred, NMSU will act to stop the conduct, to prevent its recurrence, to remedy its effects, and to discipline those responsible in accordance with the *Administrative Rules and Procedures of NMSU* or the *NMSU Student Social Code of Conduct, as applicable* (See the **NMSU Notice of Non-Discrimination and Equal Opportunity**).

B. **Prohibition of Discrimination**: No employee or student, either in the workplace or in the academic environment, should be subjected to discrimination which includes inappropriate conduct. Even one incident may constitute a violation of policy, rule or procedure. It is expected that students, faculty and staff will treat one another and campus visitors with respect.

C. **Work/Academic Environments Protected from Discrimination:** It is against NMSU policy to discriminate in any aspect of employment or education, which includes, but is not limited to:
    1. hiring actions and terminations;
    2. compensation, assignment, or classification of employees;
    3. transfer, promotion, layoff, or recall of employees;
    4. job advertisements;
    5. recruitment actions;
    6. testing;
    7. grading;
    8. acceptance or participation in an academic program or activity;
    9. use of university facilities;
    10. training programs;
    11. benefits;
    12. retirement plans, and paid and unpaid leave programs;

13. housing;
14. academic accommodation;
15. employment accommodation;
16. financial aid;
17. other terms and conditions of employment

D. **Fact Specific Determinations**: Determining what constitutes discrimination will be accomplished on a case by case basis and depends upon the specific facts and the context in which the conduct occurs. Some conduct may be inappropriate, unprofessional, and/or subject to disciplinary action, but would not fall under the definition of discrimination. The specific action taken, if any, relating to a particular instance depends on the nature and the seriousness of the conduct that is reported.

E. **Examples:** Discriminatory practices include, but are not limited to:
   1. discrimination on the basis of a person's age, ancestry, color, disability, gender identity, genetic information, national origin, race, religion, sex, protected veteran status, sexual orientation, serious medical condition or spousal affiliation;
   2. retaliation against an individual for engaging in a protected activity such as filing a charge of discrimination, participating in an investigation, or opposing discriminatory practices;
   3. Use of electronic mail or computer dissemination of offensive material relating to protected categories;
   4. Denying or interfering with an employee's or student's authorized reasonable accommodation based on disability or religion;
   5. employment or education decisions based on stereotypes or assumptions about the abilities, traits or performance of individuals based on age, ancestry, color, disability, gender identity, genetic information, national origin, protected veteran status, race, religion, serious medical condition, sex, sexual orientation, or spousal affiliation; and
   6. conduct that has the purpose or effect of substantially interfering with an individual's academic or work performance, or of creating an intimidating, hostile or offensive environment in which to work or learn.

## PART 6: SEX DISCRIMINATION/SEXUAL HARASSMENT POLICY

1. **Commitment to Elimination of Sexual Discrimination**: NMSU is committed to providing a place of work and learning free of sexual misconduct which includes sexual harassment and sexual violence.

Engaging in sexual behavior that is inappropriate, unwanted and unsolicited is a violation of NMSU policy. Where sexual harassment is found to have occurred, NMSU will act to address the reported conduct, to prevent its recurrence, to remedy its effects, and to discipline those responsible in accordance with the *Administrative Rules and Procedures of NMSU* and/or *NMSU Student Social Code of Conduct, as applicable.*

2. **Unwelcome Conduct of Sexual Nature**: No employee or student, either in the workplace or in the academic environment, should be subjected to unwelcome non-verbal, verbal or physical conduct that is of a sexual nature. Even one incident may constitute a violation of NMSU policy, rule or procedure.
3. **Fact Specific Determinations**: Determining what constitutes sexual harassment is dependent upon the specific facts and the context in which the conduct occurs. Some conduct may be unprofessional and/or subject to disciplinary action, but would not fall under the definition of sexual harassment. The specific action taken, if any, depends on the nature and the seriousness of the reported conduct and may include disciplinary processes.
4. **Standard(s) to Find Violation of Sexual Discrimination Policy**: Unwelcome sexual advances, requests for sexual favors, and other non-verbal, verbal or physical conduct of a sexual or gender bias nature, constitute a violation of NMSU policy and/or administrative rules and procedures when:
    1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic status;
    2. Submission to or rejection of the conduct is used as a basis for academic or employment decisions or evaluations, or permission to participate in an activity; or
    3. The conduct has the purpose or effect of substantially interfering with an individual's academic or work performance, or of creating an intimidating, hostile or offensive environment in which to work or learn.
5. **Forms of Sexual Harassment**: Sexual harassment may take many forms, subtle and indirect, or blatant and overt.
6. **Examples:** Examples of unwelcome conduct of a sexual or sex related nature that may constitute a violation of policy, rules or procedures may include, but are not limited to:
    1. Rape, sexual assault, sexual battery, sexual coercion, sexual exploitation, stalking, or other sexual violence;
    2. Sexual violence is a physical act perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs or alcohol. Additionally, a person may be unable to

give consent due to an intellectual or other disability;
3. Sexually explicit or gender related statements, comments, questions, jokes, innuendoes, anecdotes, or gestures;
4. Uninvited touching, patting, hugging, or purposeful brushing against a person's body or other inappropriate touching of an individual's body;
5. Remarks of a sexual nature about a person's clothing or body;
6. Use of technology, electronic mail or computer dissemination of sexually oriented, sex-based communications or sexually explicit images;
7. Sexual advances, whether or not they involve physical touching;
8. Requests for sexual favors in exchange for actual or promised job or educational benefits, such as favorable reviews, salary increases, promotions, increased benefits, continued employment, grades, favorable assignments, letters of recommendation;
9. Displaying sexually suggestive objects, pictures, magazines, cartoons, or screen savers; or
10. Inquiries, remarks, or discussions about an individual's sexual experiences or activities and other written or verbal references to sexual conduct.

## PART 7: RETALIATION

A. **Prohibition of Retaliation**: Retaliation against an individual who in good faith complains of alleged discrimination or sexual harassment or provides information in an investigation about behavior that may violate NMSU policy, rules or procedures is prohibited and may be grounds for discipline. Retaliation in violation of NMSU policy, rules or procedures may result in discipline up to and including termination and/or expulsion. Any employee or student bringing a discrimination or sexual harassment complaint in good faith or assisting in the investigation of such a complaint will not be adversely affected in terms and conditions of employment and/or academic standing, nor discriminated against, terminated, or expelled because of the complaint.
B. **Examples:** Examples of retaliation may include, but is not limited to such conduct or adverse actions as:
    1. Adverse action taken to keep someone from opposing a discriminatory practice, or from participating in an discrimination proceeding;
    2. Employment actions such as termination, refusal to hire, and denial of promotion;
    3. Threats, unjustified negative evaluations, unjustified negative

references, or increased surveillance;
4. Action such as an assault or unfounded civil or criminal charges that are likely to deter reasonable people from pursuing their rights; or
5. An unfair or unjustified grade.

Note that petty slights and annoyances, such as stray negative comments in an otherwise positive or neutral evaluation, snubbing a colleague, or negative comments that are justified by an employee's or student's poor work/academic performance or history are not considered adverse actions.

## PART 8: APPLICABILITY AND SANCTIONS

All students and employees are subject to NMSU policy and administrative rules and procedures. Any student or employee who violates policy, rules or procedures is subject to discipline up to and including termination and/or expulsion in accordance with the *Administrative Rules and Procedures of NMSU* or in the case of students, the *NMSU Student Social Code of Conduct*. Complaints may also be filed against visitors, consultants, independent contractors and outside vendors whose conduct violates these policies, with the possible sanctions of limiting access to campus facilities and other measures to protect the campus community.

## PART 9: POLICY STATEMENT DISTRIBUTION

The Chancellor's policy statement references the university's position as contained in these administrative rules and procedures. All employees will be provided the Chancellor's policy statement on an annual basis. Human Resource Services (HRS) and the Office of Institutional Equity (OIE) will maintain documentation (written or electronic) that each employee received the Chancellor's policy statement. New employees will be provided a copy of the Chancellor's policy statement at the time of hire, generally at New Employee Orientation (NEO) and documentation will be maintained by HRS. Additionally, the Chancellor's policy statement will be provided to students at least annually. The distribution and receipt documentation may be accomplished electronically for either employees or students. The complete text of this policy will be maintained on the OIE website: http://equity.nmsu.edu/

## PART 10: COMPLAINTS AND INVESTIGATION

A. **Initiation of Complaint**: Employees and students may file an internal

discrimination complaint with OIE within ninety (90) working days from the date of the incident(s). Individuals may use the NMSU Internal Discrimination Complaint Form to submit their complaint. The use of this form facilitates the gathering of information that is necessary to assess the complaint. The OIE Executive Director (or designee) may extend the filing date of a complaint beyond the ninety (90) working days if there are extenuating circumstances.

B. **Preliminary Review by OIE**: OIE will provide the option to the complainant of pursuing their complaint through an informal (which may include mediation) or formal process (submittal of the complaint). The formal internal discrimination complaint will be subject to an initial review to determine if the complaint will proceed to the investigation. If the initial review finds that the complaint will not be accepted for investigation, the OIE Executive Director (or designee) will inform the complainant in writing of the decision. The complainant may appeal the decision in writing to the Executive Vice President and Provost (or designee) within five (5) working days of receipt of the notification letter.
C. **Investigation**: If the internal discrimination complaint is accepted, the accused individual(s) will be provided a copy of the complaint and will be extended five (5) working days to provide a written response to OIE. OIE shall initiate the process to investigate the complaint. This process includes interviewing the complainant, respondent, potential witnesses and the gathering of any related documents. All individuals are required to cooperate with any investigation in response to allegations of discrimination. Refusal to cooperate in an investigation may result in disciplinary action in accordance with university policy, rules and procedures or student social code of conduct, as applicable.
D. **Issuance of Findings**: A report of inquiry will be generated by the investigator and forwarded to the Executive Vice President and Provost. Within fifteen (15) working days of receipt, the Executive Vice President and Provost (or designee) will review the report and render a decision in writing to the OIE Executive Director. The standard of evidence used for internal discrimination investigations is the “preponderance of the evidence”. Preponderance of the evidence means the greater weight of the evidence. The OIE Executive Director (or designee) will transmit the Executive Vice President and Provost’s (or designee) decision in writing to the complainant, the accused and appropriate administrators. The completion of the decision transmittal exhausts the internal process for employees, students and others or may file complaints.
E. **Penalties**: Cases for students who are found to have violated the *NMSU Student Social Code of Conduct* and/or the *Regents Policy Manual or Administrative Rules and Procedures of NMSU* will be referred to Assistant Dean of Students. Cases for employees who are found to have violated

*Regents Policy Manual or Administrative Rules and Procedures of NMSU* will be referred to Human Resource Services/Employment and Labor Relations. Sanctions for students may include action up to and including expulsion. Sanctions for employees may include employment action up to an including termination in accordance with provisions of the *Administrative Rules and Procedures of NMSU*

## PART 11: GENERAL INFORMATION

A. **Supervisors**: If anyone in a supervisory, managerial, administrative or executive role or position, such as a supervisor, department chair, or director of a unit, receives a complaint of alleged discrimination or sexual harassment, or observes or becomes aware of conduct that may constitute discrimination or sexual harassment, that person must immediately contact OIE.

B. **Employees**: An employee who believes that he or she has been subjected to discrimination or sexual harassment by anyone is encouraged, but it is not required, particularly if it may be confrontational, to promptly tell the person that the conduct is unwelcome and ask the person to stop the conduct. An employee is not required to do this before filing a complaint. A person who receives such a request must immediately comply with it and must not retaliate against the employee. If the employee feels uncomfortable about discussing the incident with the immediate supervisor, the employee should feel free to bypass the supervisor and file a complaint with OIE.

C. **Students**: A student who believes that he or she has been subjected to discrimination or sexual harassment by anyone is encouraged, but it is not required particularly if it may be confrontational, to promptly tell the person that the conduct is unwelcome and ask the person to stop the conduct. A student is not required to do this before filing a complaint. A person who receives such a request must immediately comply with it and must not retaliate against the student. If the student feels uncomfortable about discussing the incident with the faculty member, department head, dean or director of an administrative unit, the student should feel free to bypass the person and file a complaint with OIE. When discriminatory conduct involves a crime of violence or a non-forcible sex offense, FERPA permits NMSU to disclose to the alleged victim the name of the alleged perpetrator, any violation found to have been committed and any sanction imposed). In the event a student is found to have engaged in sexual harassment of another student, NMSU will disclose to the student who was harassed, information about the sanction imposed on the student when the sanction directly relates to the harassed

student.

D. **Internal NMSU Units**: Internal units such as the Dean of Students Office, Housing and Campus Life, Athletics and community colleges will promptly contact and consult with OIE when knowledge is obtained relating to potential discrimination or sexual harassment.
E. **Non-employees and non-students**: Individuals who are neither NMSU employees nor NMSU students and who believe they have been subjected to discrimination or sexual harassment by an NMSU employee during the employee's work hours or by a NMSU student on campus or at a NMSU-sponsored event may utilize the complaint process set forth above.

## PART 12: PROMPT ATTENTION

Complaints of discrimination or sexual harassment are taken seriously and will be dealt with promptly, impartially, and equitably. Where discrimination is found to have occurred, NMSU will act to stop the reported conduct, to prevent its recurrence, to remedy its effects, if any, and to discipline those responsible.

## PART 13: CONFIDENTIALITY

NMSU recognizes that confidentiality is important. However, confidentiality cannot be guaranteed. The administrators, faculty or staff responsible for implementing these policies, rules and procedures will respect the privacy of individuals reporting or accused of discrimination or sexual harassment to the extent reasonably possible and will maintain confidentiality to the extent possible. Examples of situations where confidentiality cannot be maintained include, but are not limited to, necessary disclosures during an investigation, circumstances where the NMSU is required by law to disclose information (such as in response to legal process), or when an individual is in harm's way. To the extent provided by law and university policy, rules or procedures, documents concerning a discrimination investigation and investigative results are not subject to public disclosure. Investigative materials and documents contain matters of opinion related to the working relationship between NMSU and its employees. Documents protected by the Family Educational Rights and Privacy Act (FERPA), Privacy Act of 1974, the New Mexico Inspection of Public Records Act, etc. are not subject to disclosure.

## PART 14: SUPERVISOR RESPONSIBILITIES

A. **Prevention**: Every supervisor (includes faculty in academic setting) has responsibility to take reasonable steps to prevent acts of discrimination or sexual harassment, which include, but are not limited to:
    1. Monitoring the work and school environment for signs that discrimination or harassment may be occurring;
    2. Refraining from participation in, or encouragement of actions that could be perceived as discrimination or harassment (verbal or otherwise);
    3. Stopping any observed acts that may be considered discrimination or harassment, and taking appropriate steps to intervene, whether or not the involved individuals are within their line of supervision; and
    4. Taking immediate action to minimize or eliminate the work and/or school contact among individuals where there has been a complaint of sexual harassment, pending the completion of the investigation.
B. **Required Reporting**: If a supervisor (or faculty in academic setting) receives a complaint of alleged discrimination or sexual harassment, or observes or becomes aware of conduct that may constitute discrimination or sexual harassment, the supervisor (or faculty in academic setting) must immediately contact OIE.
C. **Consequences for Failure to Act**: Failure to take the above action to prevent the occurrence of or stop known discrimination or harassment may be grounds for disciplinary action in accordance with provisions of the *Administrative Rules and Procedures of NMSU*.

## PART 15: RELATIONSHIP TO FREEDOM OF EXPRESSION

NMSU is committed to the principles of free inquiry and free expression. Vigorous discussion and debate are fundamental rights and the university's policy, rules and procedures are not intended to stifle teaching methods or freedom of expression. Discrimination or sexual harassment, however, is neither legally protected expression nor the proper exercise of academic freedom; it compromises the integrity of this institution, the tradition of intellectual freedom and the trust placed in the institution by its members.

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 3 | Ethics, Equity and Equal Opportunity

**Rule Administrator:** Director of Institutional Equity

**Last Updated:** 01/09/2019

## Related

**Cross-Reference:**
***See also:***

**ARP 3.13 – Conflicts of Interest Arising from Consensual Relationships**

**ARP 3.26 – Gender Equity and Statement of Principles**

**ARP 16.78 – Mandatory Reporting for Suspected Child Abuse, Sexual Misconduct, Domestic Violence, Dating Violence or Stalking**

**Revision History:**

01/09/2019 Amendment approved by Chancellor
2017 Recompilation
03/10/2014 Amendments approved by Board of Regents

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 3.26 – Gender Equity and Statement of Principles

arp.nmsu.edu/3-26

New Mexico State University ("NMSU") is committed to promoting and improving gender equity by adjusting its policies and administrative rules and procedures, and implementing concrete actions designed to improve gender equity throughout the university community. To this end, NMSU adheres to the following principles:

*NMSU affirms the sex and gender equality of all individuals in the NMSU community. Gender Equality among faculty, students, staff and associated workers is a source of human excellence, cultural enrichment and social strength. NMSU recognizes that a harmonious climate in relation to gender is essential to the academic, professional and personal development of its members.*

*NMSU acknowledges its ongoing responsibility to develop and support a responsive and open environment that is gender inclusive; to promote anti-sexism; and to create a study, work and living environment that is free of discrimination and harassment on the basis of sex, gender or gender identity.*

*NMSU is committed to the objective of ensuring sex and gender equity in the NMSU community. NMSU is committed to improving the status of women at NMSU to achieve sex and gender equity.*

*NMSU acknowledges its ongoing responsibility to develop and support a university community whose diversity reflects the students it educates; to support equity and full participation by women in the issues such as compensation and distribution of resources; and to support a work environment in which individuals with family responsibilities are not disadvantaged.*

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 3 | Ethics, Equity and Equal Opportunity

**Rule Administrator:** Executive Director Institutional Equity

**Last Updated:** 10/22/2007

## Related

**Cross-Reference:**

*See Also* Policies 3.25 Discrimination, Harassment and Sexual Misconduct on Campus.

**Revision History:**

2017 Recompilation, formerly Rule 1.20
10/22/07 Policy adoption approved by Board of Regents
06/10/07 Policy approved by Administrative Council

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 3.39 – Procedures to Use Preferred Name

arp.nmsu.edu/3-39

## PART 1: INTRODUCTION

New Mexico State University recognizes that for a variety of reasons, individuals may prefer to use a name that is different from their legal name to identify themselves. A preferred name reflects the manner in which an individual wishes to be addressed by faculty, staff, students, co-workers and the public. NMSU's rule on preferred names covers first and middle names; surnames may only be changed with a legal name change.

Similarly, a preferred pronoun indicates how an individual would like to be referred to by others in lieu of their name; preferred pronouns may change over time. Some prefer gender-neutral or gender-inclusive pronouns when referring to or speaking with an individual. The following list of possible pronouns is not all inclusive: 1. he, him, his; 2. she, her, hers; 3. they, them, their and 4. xe, xem, xir.

## PART 2: CONDITIONS APPLICABLE TO USE OF PREFERRED NAME AND/OR PRONOUN

### A. Individual Use

Commencing with the fall 2016 semester, a preferred first or middle name and/or use of a preferred pronoun may be utilized by anyone in the university community in combination with their legal surname. As long as the use of a preferred name is not for the purpose of misrepresentation, embarrassment or offense, or other misconduct, NMSU will honor an individual's use of a preferred name or pronoun in the course of university business and education, consistent with this Rule. NMSU reserves the right to deny use of, or to remove, a preferred name if not consistent with this Rule.

### B. Respect for Use and Privacy

Employees, students and other members of the university community will respect such use, in addition to respecting the privacy of individuals concerning such use.

### C. Procedure to Use Preferred Name

Students and employees or others authorized to be listed in the NMSU Directory may initiate, update or delete the use of a preferred name via Banner Self Service, Personal Information section accessible through NMSU's portal (my.nmsu.edu)

### D. Limitations on Use of Preferred Name

Certain academic programs or internships and placements may be governed by New Mexico State law and may limit the use of a preferred name; before entering a preferred name in the system, it is recommended that you speak with your dean or ASNMSU legal services attorney regarding these potential regulatory limitations.

## PART 3: INSTITUTIONAL USE OF PREFERRED NAME VS. LEGAL NAME

### A. Preferred Name

The preferred name will be used in lieu of the legal name wherever the legal name is not required, such as:

1. learning management system
2. class rosters
3. degree audit system
4. advisee lists
5. email system
6. online directory, unless the student has opted out of the directory (following is the link to the FERPA page that references opting out of directory information: http://registrar.nmsu.edu/ferpa/).

### B. Legal Name

Use of the legal name (the name that appears on your passport, driver's license, birth certificate or U.S. Social Security card) is required for:

1. admissions and registrar official records
2. transfer credit
3. federal, state, and institutional student financial aid
4. housing contracts
5. payroll
6. benefit information
7. student billing and the student account invoice (including e-bills)

8. disciplinary action
9. other legally binding requirements

## C. Frequently Asked Questions/Examples

### 1. Who will have access to my Legal Name?

University employees with the appropriate access, the NMSU Police Department, and your supervisor (if you are employed in a campus job).

### 2. May an individual obtain an NMSU ID card with the preferred name?

If the individual records a preferred name in Banner Self Service (my.nmsu.edu), a replacement ID card may be obtained, but is not required. In order to obtain a new card, the old card with the legal name must be turned in to the ID Card Services Office. The cost of a new card can be found at http://idcard.nmsu.edu/id-frequently-asked-questions/.

### 3. Is the NMSU ID card a form of identification accepted off campus?

It is advisable to carry a government issued form of ID such as a driver's license or passport with you in order to access resources that are not on the NMSU campus.

### 4. May an individual change their NMSU username to reflect their preferred name?

Under some circumstances an individual may be able to change their NMSU username. Contact the ICT Help Desk at http://help.nmsu.edu for more information.

### 5. Does a Preferred Name Affect my Legal Name?

Use of a preferred name does not change your legal name.

### 6. What name will appear on a student's diploma?

Generally, the student's legal name will appear on the student's diploma. However, students may provide abbreviated variations of their legal name when they apply for graduation. The legal name of a student which appears on a student's diploma may be modified slightly as follows:

1. option to display first name or first name initial
2. option to include or exclude middle name or middle initial
3. option to modify legal name for proper capitalization
4. option to modify legal name for proper accentuation of the name
5. option to include or exclude suffixes (Jr., Sr., and II)

6. the first and middle names may not be lengthened (i.e. expanding an initial to a full name) or shortened to anything other than an initial

### 7. Is it possible for a student to get a new diploma if the student's legal name has changed?

The original diploma must be returned and a replacement diploma will be issued after obtaining the appropriate documentation to update the student's legal name. The cost of a new diploma can be found at commencement.nmsu.edu. The current University officials' signatures will appear on the replacement diploma.

### 8. Why is a certain office or system not using an individual's preferred name?

There are a few reasons an office or system might not be using an individual's preferred name in some or all communications. As indicated above, some offices or processes require use of an individual's legal name. Even though some processes require the use of the legal name, it is the intent that all offices use the preferred name as much as possible in general communications. It is possible that an online system may not display an individual's preferred name. A preferred name may not be used in an online system because the system must use the legal name or because the system has not yet been updated to use the preferred name. If you have a concern that a legal name is being used instead of the preferred name, please contact the Chief Information Officer at cio@nmsu.edu.

### 9. More Information about Preferred Name:

For questions regarding a preferred name, please contact the ICT Help Desk at help@nmsu.edu.

### 10. Information about Changing Legal Name:

For information regarding change of one's legal name, please contact your local state district court with jurisdiction

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 3 | Ethics, Equity and Equal Opportunity

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 07/12/2016

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 2.89
07/12/16 Rule adoption approved by Chancellor

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 3.40 – Process for Disability Accommodation

arp.nmsu.edu/3-40

The university is dedicated to providing reasonable accommodation to qualified university employees and applicants for positions in accordance with state and federal laws. Qualified individuals with disabilities are protected from discrimination in hiring, promotion, discharge, pay, job training, fringe benefits, and other aspects of employment. Accessibility to buildings, programs, and services will also be safeguarded to the extent that an undue financial hardship is not imposed on the university. The university also provides reasonable accommodation for temporary impairments, such as those that may result from pregnancy. The accommodation process begins when an employee (or applicant) communicates the need for an accommodation. The completion of the Petition for Accommodation Form, available at the Office of Institutional Equity/EEO, facilitates the initiation of the accommodation process.

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 3 | Ethics, Equity and Equal Opportunity

**Rule Administrator:** Executive Director Institutional Equity

**Last Updated:** 07/21/2015

## Related

**Cross-Reference:**
Office of Student Accessibility Services: https://sas.nmsu.edu/

**Revision History:**

2017 Recompilation, formerly Rule 3.30
07/21/2015 Amendment ratified by Board of Regents
06/24/2015 Provisionally amended by Chancellor

---

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 3.45 – Assistive, Service, and Companion Animals on University Premises

arp.nmsu.edu/3-45

**A. Purpose**

To assist the university in complying with federal and state law and regulations relating to public access; to provide guidance for students, faculty, staff and visitors regarding service, assistive and companion animals permitted on university premises; and to provide for the public's health, safety and welfare by requiring owners and handlers to care for and to control their animals responsibly, in accordance with these rules and procedures and applicable local laws.

## B. Scope

This Rule applies to students, employees and visitors throughout the NMSU system.

1. The regulation of wildlife and exotic animals is outside the scope of this Rule; a person or entity desiring to bring such animals on university premises shall coordinate with the appropriate university office, and will be subject to applicable federal, state and local laws and regulations relating to animal welfare and public safety.
2. The regulation of animals used in teaching and research, including but not limited to the therapeutic riding program, is governed by the Animal Welfare Act and the Office of Laboratory Animal Welfare, and is therefore outside the scope of this Rule. The university has established the Institutional Animal Care and Use Committee to administer these federal laws and corresponding regulations in the care and use of vertebrate animals in academic and research settings. (*See* **ARP 11.01** E.) Concerns or complaints relating to these issues should be directed to the chair of the NMSU Institutional Animal Care and Use Committee. Additional information may be found at: NMSU Research Compliance IACUC

## C. Rule Administrators

The following positions have authority relative to the administration of this Rule; each also serves as a member of the Companion and Assistive Animals Committee, described in Section E. 6, below.

1. NMSU Police Chief or Designee;
2. Director of Housing and Campus Life or Designee;
3. Director of Office of Institutional Equity or Designee;
4. Director of Student Accessibility Services or Designee;
5. NMSU-Alamogordo Community College Vice President of Student Success or Designee;
6. NMSU-Carlsbad Community College Vice President for Student Services or Designee;
7. NMSU-Doña Ana Community College Vice President for Student Services or Designee;
8. NMSU-Grants Community College Vice President for Student Services or Designee;
9. Department Head, Director or Equivalent of Affected Program.

# D. Definitions

The definitions provided in this section will be used in the application and enforcement of this Rule.

## 1. Animals Permitted on University Premises

Subject to the provisions of this Rule and applicable federal, state or local laws, the following types of animals are permitted on university premises.

a. **"Companion Animal"**: A companion animal is a domesticated animal privately owned for companionship and enjoyment. The term "companion animal" in recent years has been adopted as a more respectful term for "pet". See Section E. 1. below
b. **"Emotional Support Animal" (ESA)"**: An emotional support animal is a companion animal that may be permitted, if deemed to be a reasonable accommodation, for a person with a psychological disability, by either the Office of Institutional Equity or the NMSU Office of Student Accessibility Services (in coordination with the VPSS or designee of the community college, if applicable. See Section E. 3. below.
c. **"Law Enforcement Animal":** A law enforcement animal is usually a dog, specially trained to assist law enforcement personnel with police work. See Section E. 4.below.
d. **"Pet"**: See Companion Animal.
e. **"Service Animal"**: A service animal is either a dog or a miniature horse that is individually trained to do work or perform specific tasks to assist a person with a psychological or physical disability. Service animals are distinct from companion

animals, emotional support animals, or other assistive animals. See E. 2. below regarding a service animal's right to public access.

f. **"Service Animal in Training"**: A service animal in training is defined as either a dog or miniature horse in the process of being trained as a service animal. (See Section E.2. d. below)

g. **"Therapy Animals"**: Therapy Animals are animals involved in Animal Assisted Interventions. These definitions were derived from Pet Partners.

   i. **"Animal Assisted Activity (AAA) Animals"**: AAA animals are domesticated companion animals that may visit the university, with prior approval, to provide recipients an opportunity for social interaction, recreation, or educational or motivational benefits. Examples would include visits by a group of dogs and their handlers to a university residence hall during exam week. The AAA animals and their handlers receive specialized training by an appropriate organization (e.g. Pet Partners, Therapy Dogs International, Therapaws.)

   ii. **"Animal Assisted Therapy (AAT) Animals"**: AAT animals are domesticated companion animals that assist professionals with goal-directed interventions involving treatment of clients. An example of this would be a handler and the AAT dog being present in a room to assist a speech language pathologist, who is treating a client. The professional sets goals for the session, leads the session, incorporates the animal into the treatment session, evaluates the effectiveness of the session, and documents the progress of the client being treated. Sometimes the professional will also be the handler, and utilize their own companion animal, which has been trained as an AAT animal
   *See* Section E. 4. below.

## 2. "Exotic Animal"

Exotic animals are wild, non-domesticated animals, not native to the United States of America, including but not limited to monkeys, tropical birds and certain species of tarantulas and snakes.

## 3. "Handler"

A "handler" is the person in control of, and a person the university may hold responsible for the acts of a service animal, a service animal in training, or other assistive animal. The handler may or may not also be the owner of the animal.

## 4. "NMSU Entity"

sometimes also referred to as "unit", is a general term which may refer to a college, a department or any other individual administrative unit within the NMSU system.

### 5. "Owner"

A person who has legal custody of an animal covered by this Rule. The university will hold owners responsible for the acts of their animal. The owner may or may not also be the animal's handler.

### 6. "University Housing"

University Housing refers to all housing units and attached yards, as well as to indoor and outdoor common areas under the authority of NMSU Housing and Residential Life. University Housing consists of Single Student Housing and Student Family Housing.

### 7. "University Premises"

University premises refers to all land, buildings, or other indoor or outside space owned, leased by NMSU, or otherwise under the control of New Mexico State University. University owned property leased to other entities and not under the operational control of NMSU are not considered university premises for purposes of this Rule.

### 8. "Wildlife"

Wildlife refers to non-domesticated animals native to the United States of America, including but not limited to coyotes, wolves, skunks, and certain species of tarantulas and snakes (i.e. rattlesnakes).

## E. **Rule Statements**

### 1. Animals Visiting Campus and/or Residing in University Housing

NMSU maintains an environment designed primarily for the support of the university's education, research, and public service missions. Animals are permitted on university premises, in accordance with applicable law and this Rule which requires the owner and the handler to be fully responsible for the animal's control, care and maintenance. Students and employees may be subject to disciplinary action for failure to control or clean up after their animal, regardless of the damages caused, if any, and in accordance with applicable university policy, rules and procedures. If any provision in this section conflicts with legal requirements or policies in Sections E. 2. or E. 3. below relating to service animals and/or emotional support animals, those provisions shall govern.

#### a. Owner/Handler Responsibilities

The owner/handler or other person in custody of a companion or other assistive animal on

university premises shall:

i. Comply with this Rule and all applicable federal, state, or local laws and regulations pertaining to animal control, including current vaccination and licensure;
ii. Ensure that dogs and cats, and other animals to the extent feasible, wear a legible identification tag and a current rabies tag at all times;
iii. Control and supervise their animal at all times, including but not limited to ensuring that the animal does not cause disruption, and/or leashing the animal while on university property. (Note: service animals are not required to be leashed, if under control of their handler, and especially when a leash would interfere with the task the animals performs on behalf of its handler.);
iv. Keep the animal clean. Daily grooming and/or occasional baths may be required to keep animal odor to a minimum. Adequate flea prevention and control is also required.
v. Clean up, or make arrangements for someone else to clean up, their animal's defecation, urination or vomit;
vi. Pay for, and otherwise hold the university harmless from, damages caused by the animal;
vii. Comply with the animal welfare provisions outlined in Section E. 5. below.

### b. University Facility Restrictions

Animals permitted on university premises shall not disrupt university activities or members of the university community, including visitors. Additionally, the following facility restrictions apply:

i. Except as expressly provided otherwise in this Rule, owners/handlers shall not take their animals inside university buildings or facilities;
ii. Owners/handlers shall not tie or tether the animal to any university property;
iii. Except as expressly provided otherwise in this Rule, such as service animals' right to public access with their handler, owners/handlers shall comply with posted signage which may limit or prohibit access by companion animals.

### c. Exclusion from University Premises

Notwithstanding an animal's right to public access, there may be certain circumstances requiring the exclusion of animals, including but not limited to, the examples listed below. If an owner/handler will not cooperate with a request for immediate removal of the animal, the NMSU Police Department or local police jurisdiction may be called for assistance.

i. **Examples of Behavior Justifying Request for Immediate Removal of Animal:**
    - if the animal urinates or defecates inside a university building;

- if the animal causes significant property damage or injury to person or other animal;
- if the animal poses a direct threat to health or safety of others or to the animal itself (examples may include, but are not limited to science laboratories that present hazardous conditions, require protective clothing, food preparation areas, livestock pens or horse stables);
- if the animal's presence fundamentally alters the nature of a program or activity;
- if an instructor or other person is not able to adequately manage the safety risk created by the presence of the animal;
- if the animal is unsupervised or otherwise not being tended to by the owner/handler.

ii. **Nature of Facility or Event**: An animal that is neither a service animal, nor an approved therapy or emotional support animal, may be asked to leave a university facility or event that does not otherwise permit companion animals. See Also Section E. 9.

iii. **Emergent Circumstances**: Any companion animal, service animal, emotional support or other assistive animal may be asked to leave an area when emergent or security circumstances require use of a law enforcement animal, chemicals or other emergency deployment.

### d. Single Student Housing

Except as expressly provided elsewhere in this Rule, animals are not allowed to reside, nor to visit, single student housing residence facilities. This prohibition does not apply to fish; fish are permitted, subject to reasonable inspection(s) by Housing staff.

### e. Student Family Housing

In addition to any terms and conditions pertaining to companion animals contained in the housing license, the following applies to requests for animals to reside or to visit overnight within Family University Housing:

i. No animals are allowed to reside, nor to visit overnight, in Family Housing without the express written approval from the Department of Housing and Residential Life;

ii. Only dogs, cats, birds, fish, rodents (only guinea pigs, hamsters or gerbils), amphibians and nonsnake reptiles are permitted in Family Housing, absent an exception based upon extenuating circumstances granted by the Department of Housing and Residential Life;

iii. The total number of dogs and cats in a household shall not exceed a total of two (2) (e.g. 2 dogs; 2 cats; 1 cat, 1 dog).

iv. Fish, birds, rodents, amphibians and reptiles must be contained in an appropriately sized aquarium or cage at all times.

v. Dogs and cats shall be spayed or neutered, unless granted an exception by the Housing Director or designee.
vi. Alleged violations may be unilaterally investigated by University Housing staff, and action taken pursuant to the terms of the license agreement.
vii. The signatory on a university housing license agreement, as the party responsible for the premises, may have sanctions or other administrative action levied against them for violations by an owner/handler who are their co-tenants or visitors. The owner/handler may also be sanctioned in accordance with applicable employee, student or visitor conduct policy, rule or procedures.

### f. Unsupervised Animals

From time to time unsupervised animals may be encountered on a campus or other university property. In these situations, administrative or police action may be taken, for the protection of the public's safety, as well as for the safety and welfare of the animal.

## 2. **Service Animals; Service Animals in Training**

### a. Public Access

A person with a disability who uses a service animal shall be admitted to any university facility open to the public, including buildings and common carriers, subject to rare exception based on direct threat of significant harm to the health or safety of others. Service animals shall be at all times under the control of the owner, handler or trainer of the service animal.

Questions or concerns relating to public access by a service animal, and requests for reasonable accommodation in the workplace or academic setting not involving a service animal should be referred to either the Office of Institutional Equity (employees and visitors) (575-646-3635 or equity@nmsu.edu), or the Office of Student Accessibility Services, 575-646-6840 or sas@nmsu.edu.

i. The law does not require service animals to wear a vest; however, NMSU encourages the use of a vest or other service animal identification.
ii. Persons with disabilities who utilize a service animal are not required to register with any office, nor to request an accommodation, unless an additional accommodation is needed in the academic or work setting.
iii. Persons with disabilities who use a service animal on university property shall not be required to pay a fee that others (without animals) are not required to pay. (e.g. pet deposits);
iv. In an emergency requiring transportation or relocation of an owner, handler or trainer of a service animal or service animal in training, to the extent practicable, accommodations shall be made for the service animal or service animal in training to

remain with or be reunited with the owner, handler or trainer. When accommodations cannot be made that would allow the animal to remain with the owner, handler or trainer, the service animal or service animal in training shall be placed pursuant to the instructions provided by the owner, handler or trainer.

v. Misrepresentation of an animal as an authorized service animal or service animal in training will be taken very seriously. See Section E. 9.

### b. Inquiries by University Representatives

When it is readily apparent that an animal is trained to do work or perform tasks for a person with a disability (e.g. a dog is observed guiding a person with a visual disability), university representatives should not inquire about the service animal, unless there is a separate concern about disruption or other issue. It is recommended that faculty, staff or students consult with either the Office of Student Accessibility Services or the Office of Institutional Equity regarding any perceived issues.

i. In the event that it is not readily apparent that an animal is a service animal, university representatives shall not ask about the nature or extent of the person's disability, but may make two inquiries, as permitted by guidance issued pertaining to the Americans with Disabilities Act: 1. Is the animal a service animal required because of a disability?, and/or 2. What work or task is the animal trained to perform?

ii. University representatives shall not ask for documentation, such as proof that the animal has been certified, trained or licensed as a Service Animal; nor shall they ask the handler to demonstrate the tasks.

iii. For university programs and/or classes held at non-NMSU facilities, the owner of the property may require notification or verification that the animal is a service animal.

### c. Control, Care and Maintenance

Subject to limited exceptions required due to a handler's particular disability, owners, handlers and trainers of service animals and service animals in training shall comply with the requirements of E. 1 and E. 5. relating to animal control, care and maintenance.

### d. Service Animals in Training

Based on New Mexico law, service animals in training shall be admitted to facilities open to the public on the same basis that a service animal would be.

### e. Denial of Public Access

Any decision to exclude a service animal from a particular area of the university shall be made on a case-by-case basis, in coordination with the person with the disability; and if possible, also in coordination with either the Office of Student Accessibility Services (for students) or the Office of Institutional Equity (for employees and visitors). See Also Section E. 1. c. above.

### f. ADA Complaint Resolution

persons with disabilities who believe their rights under the ADA are not being honored may file either an internal complaint of disability discrimination with the Office of Institutional Equity (575-646-3635 or equity@nmsu.edu), or may file an external complaint with appropriate state and/or federal agencies. Internal complaints received will be promptly investigated and resolved. Appropriate corrective action will be taken for violations of this Rule, in correlation with the severity of the offense.

## 3. **Emotional Support Animals Permitted in Restricted Areas**

Federal law recognizes that under certain circumstances, the presence of a companion animal which provides emotional support may be granted by the appropriate university office (e.g. Office of Institutional Equity for employees and visitors; Office of Student Accessibility Services, for students) as a reasonable accommodation for a person with a disability. An example of an accommodation that might be found to be reasonable, depending upon the circumstances presented, would be waiver by university housing of its standard prohibition of companion animals, to permit an emotional support animal to reside with its owner with a disability. The university's standard procedures for assessing student requests for reasonable accommodation shall be applied, on a case by case basis, and result in an Accommodation Agreement that addresses the animal access issues.

1. A request for an emotional support animal must be based upon medical documentation indicating that the animal's presence alleviates psychological symptoms or effects associated with the disability of its owner/handler.
2. While the law requires that there be a nexus between the person's disability and the comfort provided by an emotional support animal, it does not require the animal to be trained to perform specific task(s) directly for their handler. Emotional support animals may be permitted access only to the areas specifically identified in an Accommodation Agreement authorized by the appropriate university office or other entity.
3. Persons with disabilities authorized for an emotional support animal, by either the Office of Student Accessibility Services or by the Office of Institutional Equity, shall carry a copy of the Accommodation Agreement with them. The use of a vest or other identification as an emotional support animal is encouraged.

4. In the event that it is not readily apparent that an animal should be permitted access to a particular university venue, university representatives shall not seek disability related information, and if the animal is identified as an emotional support animal, may ask to see a copy of the Accommodation Agreement authorizing access, or name of the university official or other entity granting similar approval.
5. Misrepresentation of an animal as an authorized emotional support animal will be taken very seriously. See Section E. 9.
6. **Control, Care and Maintenance**: Owners and handlers of emotional support animals are subject to the requirements of E. 1 and E. 5. relating to animal control, care and maintenance.
7. **ADA Complaint Resolution**: persons with disabilities who believe their rights under the ADA are not being honored may file either an internal complaint of disability discrimination with the Office of Institutional Equity (575-646-3635 or equity@nmsu.edu), or may file an external complaint with appropriate state and/or federal agencies. Internal complaints received will be promptly investigated and resolved. Appropriate corrective action will be taken for violations of this Rule, in correlation with the severity of the offense.

## 4. Working Assistive Animals

a. **Therapy Animals**: Therapy animals, also referred to as animals used in animal assisted interventions, (AAI) are distinct from emotional support animals and from service animals and do not have the same right to public access. Therapy animals are regulated by guidelines determined by specific associations. (e.g. Pet Partners, Therapy Dogs International, Therapaws). Visits by this type of animal to university campuses and within buildings are permitted, subject to approval from the appropriate department head, director or equivalent administrator. *See* NMSU Counseling Center for "Guidelines for Animal Assisted Interventions".
b. **Law Enforcement Animals**: Animals under the authority of law enforcement personnel, while actively responding to an actual or perceived event, are not subject to the provisions of this Rule. Their control, care and maintenance is governed by state and/or federal case law and is incorporated into the *NMSU Police Department, Law Enforcement Canine Handbook*, or other policies and procedures applicable to the specific law enforcement agency that owns the working animal.

## 5. General Animal Welfare Requirements

NMSU abides by guidelines associated with basic animal welfare and promotes quality of life for all companion and assistive animals on university premises. The following principles listed below apply to the animals within the scope of this Rule, in order to ensure their physical, mental and emotional well-being. Additionally, owners/handlers shall comply with applicable county ordinance and state law. See Doña Ana County Ordinance The five

freedoms listed at 1-5 below, were adapted from the Farm Animal Welfare Council's Five Freedoms (www.fawc.org.uk/freedoms.htm) originally developed to set standards for livestock welfare; however, they encapsulate the basic principles that are expected to be applied at NMSU to companion and assistive animals:

a. **Freedom from hunger and thirst**: Companion and assistive animals shall be provided ready access to fresh water and be provided with a diet to maximize short and long term health.
b. **Freedom from discomfort**: Because service animals are at their handler's side for a large part of each day, it is anticipated that the basic care of providing adequate shelter will be maintained. All companion and assistive animals residing or otherwise permitted on university premises shall be provided adequate shelter.
c. **Freedom from pain, injury, or disease**: The owner/handler of the companion or assistive animal will ensure the physical health of the animal, including but not limited to avoidance of locations that may involve the use of hazardous materials (certain science labs) or interaction with NMSU livestock or horses; extended walking on asphalt or cement surfaces during summer months; as well as regular vet check-ups and vaccinations or titer testing for the following: rabies, distemper, parvovirus and bordetella. If the animal is unable to be vaccinated for health reasons, the owner/handler needs to have a document from the treating veterinarian stating that this is the case.
d. **Freedom to express normal behavior**: The life of a service animal is one of work. However, its owner/handler should ensure that the animal be provided with an appropriate level of "down-time" or "play-time" in order to maintain the service animal's mental well-being. The use of positive training techniques is encouraged.
e. **Freedom from fear and distress**: Service animals may be exposed to people, situations, or surroundings that companion and other assistive animals would not be exposed to. For example, very crowded noisy hallways in university buildings. It is the responsibility of the animal's owner/handler to ensure that the animal has received effective training so that the animal not only behaves appropriately in these settings, but that the animal has had positive experiences while being exposed to these settings so it does not become stressed. Leaving companion and other assistive animals confined in quarters alone for extended periods of time may be a violation of this Rule, depending upon the specific circumstances.
f. **Other special issues to consider when tending to the welfare of service animals include**:
    i. Respect for the aging of the animal, including any signs of cognitive or physical impairment, must be shown, including consideration of the appropriate time to for retiring the animal from service duties;
    ii. Related to the provisions of subsection E. 5. e. above, owners/handlers should be aware of the potential sources of chronic stress to the animal, and consider

the impact that such stress may have on the animal. This necessitates that the owner/handler pay attention to the warning signs of chronic stress in their service or other animal and take appropriate action to lessen the impact of the stress. This is particularly true if the animal is expected to work for long periods of time in unpredictable settings doing stressful work (i.e., attending a football game where there are fireworks or cannon shots while being surrounded by many people, or having to perform physically or psychologically demanding duties).

iii. Additionally, owners/handlers are subject to the provisions of E. 1. c. i., regarding situations which pose potential health or safety risks to others or to their animal. Owners and handlers are encouraged to consider potential hazards carefully, and in advance, in order to decide whether or not an accommodation within an academic setting or workplace will be necessary or feasible. The owner or handler should communicate as early as possible with the faculty member, employer or other person with authority if it appears a modification to protocols or to physical environments may be necessary for the protection of other persons or the animal.

## 6. Establishment of Companion and Assistive Animals Committee

The Board of Regents hereby establishes the Companion and Assistive Animals Committee as a standing "university board" as defined by **RPM 2.30**. Complaints and other matters of concern relating to the interpretation, application or enforcement of this Rule, or corresponding procedures, may be submitted to this committee for resolution. The committee's authority to review and resolve complaints concerning animals on campus is supplemental to other grievances which might be filed.

a. **Authority**: The Companion and Assistive Animals Committee shall serve both as an advisory resource to the individual Rule administrators regarding the application and enforcement of this Rule, as well as a body that will assist the university community with dispute resolution as needed for issues involving animals on campus. The committee shall have no authority relative to teaching or research animals under the authority of the Institutional Animal Care and Use Committee, governed by distinct federal regulations. Other than its advisory function, the committee shall have no authority to take action in matters where another university department has jurisdiction to act, such as the NMSU Police Department (a criminal case involving an alleged vicious animal) or the Office of Institutional Equity (exclusion of a service animal resulting in a complaint of discrimination in violation of the ADA).
b. **Membership**: The Companion and Assistive Animals Committee shall be comprised of: each Rule administrator identified in Section C.; one or more faculty or staff invitees of the Rule administrators, who have knowledge or expertise regarding service, companion and other assistive animals; the chair of the IACUC Committee or

designee (ex officio), and a representative from the Office of General Counsel (ex officio).

c. **Meetings**: The Companion and Assistive Animals Committee may be convened by any of its members, at any time necessary for the resolution of issues pursuant to this Rule. Representatives from the community colleges and or other faculty, staff or students in need of an advisory opinion or other assistance from the committee may submit their issue in writing or request to present in person to the committee.

## 7. **Dispute/Complaint Resolution**

Any person may bring an issue of a Rule violation or other problem with an animal on campus to the attention of any of the individual Rule administrators (See Section C. above), and/ or directly to the Companion and Assistive Animals Committee.

### a. Elements of Complaint or Other Concern

To the extent possible, complaints and other letters of concern shall provide date, time, and location of any alleged violation or incident; the party or parties charged, if known; any witnesses, if known; any other relevant facts; as well as the relief sought by the complainant.

### b. Complaint Prioritization

Complaints and other letters of concern will be processed in the order they are received, unless there is a health or safety risk involved, in which case, it will be expedited.

### c. Receipt and Routing for Initial Review

The recipient of a complaint or other letter of concern shall coordinate with the chair of the Companion and Assistive Animals Committee, and route it for initial review by the appropriate Rule administrator. Initial review may involve:

i. Investigation of the facts by the chair of the Companion and Assistive Animals Committee, in coordination with the appropriate Rule administrator;
ii. Exploration of avenues for resolution of the issues raised, including discussion, community education, mediation or other methods.
iii. If the Rule administrator is able to resolve it in accordance with the Rule/procedures under their jurisdiction, the matter shall be closed.
iv. If an issue is not resolved within 7 business days, it may be forwarded by any of the involved parties (the complainant, the respondent, the Rule administrator, the chair of the Companion and Assistive Animals Committee) to the full Companion and Assistive Animals Committee for consideration and further action.

### d. Committee Review

If the complaint or concern is not resolved by the Rule Administrator or by the chair of the Companion and Assistive Animals Committee through discussions with or between the parties, the chair may convene all the members of the committee to consider the matter.

i. The committee shall hear from all parties. Contact shall be made through notice by personal delivery, email, other electronic means, or by US mail to the most current address on record with the university, if any. A copy of the complaint or other letter of concern shall be included with the communication, inviting comment or attendance at a meeting. Each party shall respond in writing indicating their preference.
ii. If they do not wish to attend the meeting/hearing at which the matter will be discussed, the involved parties may submit a written position statement in lieu of attendance to be considered by the Companion and Assistive Animals Committee.
iii. The Companion and Assistive Animals Committee or its individual members may be in a position to procure relevant evidence, and may contribute such to the hearing of the matter, in the interest of obtaining a fair result, provided that all parties are informed about the material being considered, and have the opportunity to review and/or rebut it.
iv. After consideration of the relevant facts, including submissions received from the involved parties, a majority of a quorum of the Companion and Assistive Animals Committee will issue a decision, either verbally to the parties at the close of the meeting/hearing, or by way of a written decision within 7 business days from the date the hearing was held.
v. The meeting/hearing shall be recorded.
vi. The decision of the Companion and Assistive Animals Committee shall be final.

## 8. **Education of University Community**

The Rule administrators, working in conjunction with the Office of Institutional Equity and/or the NMSU Office of Student Accessibility Services, will ensure that appropriate training is provided to faculty, staff and students regarding the law's requirements for non-discriminatory equal access, in order to increase mutual understanding and to reduce misunderstanding and/or conflict about where different types of animals are permitted to be on campus.

## 9. **Misrepresentation of Animal as an Authorized Animal**

The New Mexico Service Animal Act, NMSA 1978, Section 28-11-6 et seq, makes it a crime to knowingly present an animal as a service animal or service animal in training when it does not meet the definition. Additionally, falsification of documentation or other misrepresentation of an animal as a service animal, service animal in training, emotional support animal or other animal permitted under these policies, in order to gain access to

university facilities not otherwise open to companion animals, will be taken seriously. If reported or suspected, the appropriate university office will investigate. Administrative, disciplinary and/or criminal action will be pursued as warranted by the investigative findings.

### 10. **Conflicts Involving Assistive and Companion Animals**

It is recognized that presence of animals on campus may from time to time create problems for others. For example, the presence of a service animal, other assistive animal or companion animal may negatively affect others with allergies, respiratory impairments and other conditions.

a. The facts relevant to each conflict situation will be assessed in order to balance the rights of each affected party, and to the extent feasible, the rights of each party will be honored, with or without accommodation of policies, procedures, course schedules etc.
b. When a conflict involves two animals, the public access rights of a service animal or service animal in training will likely prevail. Note: The New Mexico Service Animal Act makes it a crime to intentionally fail or refuse to control an unrestrained animal, which animal interferes with or obstructs the owner, trainer, or handler of the service animal or service animal in training.
c. When a conflict involves any person and either the owner, handler or trainer of a service animal or service animal in training; or involves any person and the service animal or service animal in training; the rights of the owner, handler or trainer and/or the rights of the service animal or service animal in training will likely prevail. Note: The New Mexico Service Animal Act makes it a crime to intentionally interfere with (i.e. harassment or obstruction) with the use of a service animal or service animal in training.
d. Conflict resolution will be managed by the Office of Student Accessibility Services or the Office of Institutional Equity, as appropriate, for conflicts involving service animals and animals permitted as emotional support animals; those offices may utilize the Companion and Assistive Animals Committee in an advisory capacity.
e. Conflicts involving companion animals may be directed to the Companion and Assistive Animals Committee for resolution by that committee.

## F. **Related Procedures and Forms**

Consistent with **RPM 1.10** and **ARP 1.10**, the policy administrators, in consultation with the Companion and Assistive Animals Committee, and approval from their respective vice president or equivalent administrator, may issue supplemental procedural guidelines and/or

forms. Such procedures shall not conflict with this Rule, and are intended to facilitate the implementation, application, and enforcement. Such procedures and forms shall be posted at an appropriate NMSU website, and linked from this Section.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 3 | Ethics, Equity and Equal Opportunity

**Rule Administrator:** Director Student Accessibility Services

**Last Updated:** 12/13/2013

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 3.06

12/13/13 Policy adopted by Board of Regents

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 3.63 – Freedom of Expression

arp.nmsu.edu/3-63

## PART 1: PURPOSE

The purpose of this policy is to recognize, respect, and encourage the free exchange of ideas through written, spoken, and other forms of expression, including the right to peaceful assembly, as guaranteed by the First Amendment to the U.S. Constitution and the New Mexico Constitution. Furthermore, this policy clarifies application throughout the NMSU system by identifying the distinct types of forums, as well as to describe the reasonable restrictions, if any, which may be imposed in order to protect the university's teaching, research and service operations, and student activities from significant disruption and interference.

## PART 2: SCOPE

This policy applies to all people, and throughout the NMSU system (at all campuses, facilities and other real property under the operation and control of the NMSU Board of Regents, to include university sponsored events off-premises). Commercial solicitation is not covered by this policy and is governed by **ARP 14.92**.

## PART 3: POLICY ADMINISTRATOR

The President at each campus shall have primary responsibility for the administration of this policy, on behalf of the NMSU Board of Regents. Parties responsible for implementing and applying this policy also include, but are not limited to:

A. Provost and Executive Vice President
B. Deans of the Colleges and Libraries and Graduate School
C. Dean of Students, including the Office of Campus Activities

D. Associate Vice President of Facilities and Services
E. Director of Athletics
F. Director of Housing and Campus Life
G. Director of Special Events
H. Manager or Building Monitor within any university facility

## PART 4: DEFINITIONS

For purposes of administering this policy, the following definitions apply:

A. **Affix** means to stick, to anchor, or to fasten to something else, regardless of whether or not it leaves a mark or causes damage.
B. **Commercial Speech** is Speech that proposes a commercial transaction; the audience consists of prospective consumers, and the content of the message is business related in character.
C. **Content Neutral** means without regard to the viewpoint or message. Content Neutral restrictions are those based on reasonable time, place, and manner rather than the content or viewpoint of the message.
D. **Forum** is a term used by the U.S. Supreme Court to help describe the extent to which Content Neutral restrictions on free expression may legally be applied. **The three types described in this policy are:** traditional open public forum; limited public forum and non-public forum. These terms apply not only to physical areas, but also to electronic communication and websites. The type of forum will be determined by the nature of the space being used, its traditional usage, official designations, and the circumstances relating to the nature of an event or function taking place in that location. ***For example***, if a normally public forum were reserved for a specific event (following applicable university procedures) that might convert the location to a limited or non-public forum during the event for which it was reserved; conversely, areas such as special collections within the university are typically non-public forums, but may become limited public forums for certain special events.
E. **Social Media** means computer- mediated tools that allow people to create, share, or exchange information, ideas, videos, and pictures in virtual communities and networks.
F. **Speech** is written, spoken, and other forms of expression of thoughts, ideas, or positions, generally related to issues of public interest.
G. **University Premises**, sometimes referred to simply as “campus,” means all campuses, facilities, land, buildings, or other indoor or outside space owned, leased or otherwise under the operational control of NMSU. University owned property leased to other entities and not under the

operational control of NMSU are not considered University Premises for purposes of this policy.

H. **Unprotected Speech** means Speech that is not afforded First Amendment protection, such as Commercial Speech that is false or misleading. Other examples include fighting words, child pornography, defamation, and libel.

## PART 5: POLICY STATEMENTS

New Mexico State University aspires to be an intellectually open campus. Free exchange of ideas is a reflection of the university's public land-grant heritage, interest in diverse points of view, and commitment to excellence in education and research. NMSU encourages free expression and peaceful assembly, provided they do not disrupt the university missions or functions. The type of Forum, described below, will determine the level of restriction, if any, which may be imposed on free expression activities within the Forum. Restrictions must be Content Neutral, typically geared to time, place and manner. The type of Forum for a given location may vary, based on the circumstances relating to the nature of an event or function scheduled to occur at the location.

A. **Public Forums** are areas that traditionally have been open to the public, such as parks, sidewalks, and lobbies as well as other areas that become public Forums by university designation. Free expression and civil discourse are encouraged in public Forums, and any regulation of expression within a public Forum must be narrowly tailored to serve a compelling state interest.

B. **Limited Public Forums** are areas open to the public or a segment thereof (including through the purchase of admission), but where there is a specific purpose. The necessities of confining a Forum to the limited and legitimate purpose for which it was created may justify some limitations that are narrowly tailored to allow the event or activity to continue and/or achieve its intended purpose. Any limitations must be consistent with the spirit of this policy. Legitimate limitations include subject matter and classification of participants (students, student government representatives, faculty, etc.). Limitations must be reasonably related to a definite and substantial university interest. Any limitations must be Content Neutral, and aimed solely at reducing or preventing disruption to the activity that would cause a definite and measurable interruption to the intended purpose, or protecting other clearly compelling university interests (e.g., public safety). If a limited public Forum serves more than one purpose, the university may prioritize the purposes for which it may be used, e.g. a campus auditorium may give priority to theater productions. Expression within a limited public Forum is permitted consistent with the Procedural Guidelines administered

by the Office of Campus Activities.

C. **Non-Public Forums** are areas not open to the general public and where expression by those permitted to be there may be reasonably limited, in a Content Neutral manner, to that which is compatible with the purpose and nature of the location. (Examples include faculty and administrative offices, classrooms, residence hall rooms, and archive and special collections of libraries.)

D. **Disruption of university functions or activities**: Regardless of the type of Forum, free expression activities and events shall not materially or unreasonably interfere with the education, research, public service, and outreach missions of the university, office operations, or sleep of residents.

E. **Modes of Free Expression**: The university recognizes that there are many different modes of free expression, including distribution and posting of literature; group Speech activities such as rallies, parades and demonstrations; electronic sound amplification, chalk, symbolic Speech (e.g. nudity, fire, and/or weapons); and electronic communication. The limitations described in the Procedural Guidelines pertaining to the various types of expression are intended to safeguard personal safety and the university's missions, and not to hamper freedom of expression. *See* Part 6.

F. **Respect for Rights of Others**

1. **Prohibition of Third Party Interference with Right to Free Expression**: Except as provided elsewhere in this policy, university employees, students, and other members of the public shall not interfere with the rights of freedom of expression by others permitted by this policy. Alleged violations of rights afforded by the U.S. and N.M. Constitutions, recognized by this policy, will be taken seriously and investigated promptly and objectively.
2. **Retaliation Prohibited**: Retaliation against individuals who have exercised the rights granted by the First Amendment, recognized through this policy, is strictly prohibited. Any such claim should be reported immediately to an appropriate university official to register a complaint. Generally, the Office of the Dean of Students and the Office of Human Resource Services-Employee and Labor Relations administer student and employee grievances, respectively. Such claims will be taken seriously, investigated independently, and if substantiated, will be grounds for corrective or disciplinary action, appropriate to the circumstances.

G. **Respect for University Property and Functions**: In exercising the right of free expression and peaceful assembly, individuals must also accept the responsibility of following the laws related to the safety of people and property. Outdoor and indoor activities must follow all applicable fire

codes and other local, state, and federal laws. *See* Part 6, regarding Procedural Guidelines, which may clarify limitations intended to safeguard missions and personal safety, and not to hamper free expression.

H. **Interface with other laws and regulations**: There is inherent tension that exists between competing public policies affecting individual rights. A detailed examination of statutes and regulations which protect individuals from sexual harassment, discrimination, hostile environment and other discriminatory conduct is beyond the scope of this Freedom of Expression policy. This policy is not intended to insulate persons from accountability for their actions if their conduct discriminates, harasses or otherwise creates a hostile environment based on any class protected by federal and state anti-discrimination laws. (*See Also* **ARP 3.25 – Discrimination, Harassment and Sexual Misconduct on Campus**). Nothing in this policy is intended to provide a defense in any action against a third party by an alleged victim of defamation, libel, slander, invasion of privacy, assault, or any other civil or administrative claim.

I. **Dispute Resolution**: The successful implementation of this policy will depend upon the university community's education and engagement, including but not limited to understanding which types of planned activities require advance permission, and what to do if an event or expressive activity is questioned. The Procedural Guidelines (See Part 6) provide some hypothetical scenarios within the Frequently Asked Questions (FAQ's) to provide guidance about how this policy should be applied. Because time will often be of the essence when issues arise involving this policy, the informal methods listed below are available to supervisors, students, employees and members of the public in order that individuals may seek a policy clarification or interpretation in advance, in order to resolve issues in a mutually professional and amicable manner, rather than through more adversarial grievance or litigation methods. These methods include and are not limited to:

    1. A single point person will be designated by each NMSU campus president to serve as the liaison between members of the university community and/or the public and the Policy Administrators listed under Part 3, in order to resolve issues expeditiously.
    2. Individuals may request clarification of the policy or the Procedural Guidelines by contacting the designated point person. The designated point person will promptly respond to acknowledge the inquiry, and as appropriate or needed, may consult with any of the Policy Administrators prior to providing an interpretation to the individual.
    3. If the individual(s) wishes to appeal the interpretation provided by the designated point person, such notification must be given to the point

person either in writing or via email. The point person will then call a meeting of the Policy Administrators (or any subset, depending upon availability) and the individual(s) as soon as practicable, which meeting may be conducted telephonically or electronically. The decision of the Policy Administrators will be rendered within one working day of the meeting and communicated to the individual via email or other contact information supplied by the individual.

4. Students and employees also have recourse to file grievances against those who they feel may have restricted their rights under this policy, and shall follow the applicable student or employee grievance policy if the above steps have not resolved the dispute.

J. **Sanctions**

1. **Individual Consequences for Conduct Not Protected by Constitution or This Policy**: Nothing in **RPM 3.63** or these corresponding rules and procedures protects expressive activities which:
    a. constitute criminal, defamatory, or discriminatory misconduct;
    b. contain true threats of violence or imminent harm; or
    c. seek to incite, or intentionally incite, a fight.

    Individuals engaging in such conduct may face criminal prosecution, civil lawsuit, and/or disciplinary action. (*For example, see* **ARP 16.21; RPM 3.25; ARP 10.50, ARP 10.10**). Neither **RPM 3.63**, nor these corresponding rules and procedures, provide a defense to individual liability for such prohibited conduct.
2. **Disclaimer of Liability**: NMSU shall not be liable for any injuries to participants or third parties caused by individuals or groups engaging in freedom of expression activities.
3. **Damage or Injury**: If property damage or personal injury occurs, individuals or groups determined to be responsible may be subject to appropriate administrative, civil, or criminal action, for the purpose of covering the university's costs associated with the damages. Additionally, while generally NMSU wishes to facilitate free discussion, nothing in **RPM 3.63** nor these corresponding rules and procedures is intended to eliminate any rights of persons to pursue any legal remedies they may have under local, state, or federal law.
4. **Unattended or abandoned materials**: Materials used for free expression activities (literature, signage, etc.) shall not be left unattended. Any items that are left unattended for more than thirty (30) minutes may be removed by the university at the owner's expense. Signage promoting or providing directions to an event are

allowed on the preceding day for a morning event or on the day of an afternoon or evening event, will not be considered to have been left unattended, and shall be removed by the event organizers at the conclusion of the event. Permission for posting or leaving of materials outside of the above restrictions may be granted on a case-by-case basis by the Office of Campus Activities.

# PART 7: PROCEDURAL GUIDELINES

To facilitate the implementation, administration and enforcement of this policy, the policy administrators identified above may develop and issue supplemental Procedural Guidelines consistent with this policy, which may include protocols, FAQ's, forms, flowcharts, etc.. The Procedural Guidelines utilized in the application or enforcement of this policy shall be outlined below in this Section, and may be posted at an appropriate NMSU website, and linked from this section. With the approval from the policy administrators, other related reference material relating to freedom of expression, anti-discrimination laws, hate crimes, etc. may also be listed below or linked from this Section.

Pursuant to authority granted in **Regents Policy 1.10** and consistent with **Regents Policy 3.63**, Section F. the Procedural Guidelines issued September 3, 2015 are hereby merged into this [replicated] rule:

## A. Introduction and Overview

These Procedural Guidelines are issued to facilitate the implementation and consistent administration and enforcement of **Regents Policy 3.63**, as revised by the Board of Regents on July 21, 2015. *See Also* Frequently Asked Questions (FAQs) posted at **https://campusactivities.nmsu.edu/faqs/**. Certain types of free expression activities may require a permit in advance from the university's Department of Campus Activities; these are indicated in **bold** font throughout the guidelines-*See* Part VI below for the process to obtain a permit.

The policy administrators may continue to develop and issue additional or amended guidelines, consistent with **Regents Policy 3.63**. These guidelines consist of the following sections:

1. Introduction and Overview
2. Restrictions on Expression for Special Situations
3. Modes of Free Expression
4. Respect for University Property and Functions

5. Sanctions
6. Role of Department of Campus Activities
7. Dispute Resolution—*See* **Regents Policy 3.63**, Section Part 5 subsection E

## B. Restrictions on Expression for Special Situations

Individuals who voluntarily join certain organizations, such as the university police department, ROTC, athletic teams, and confidential research projects, may be subject to additional restrictions on their freedom of expression related to those functions, based upon their knowing and voluntary waiver of their rights consistent with the program needs/directives.

## C. Modes of Free Expression

1. **Distribution and Posting of Literature and Signs**: Individuals or groups may petition, distribute non-commercial written material, hand out newspapers, or conduct Speech acts.
    a. Literature may be distributed hand-to-hand, through the use of tables, or by posting on designated bulletin boards and kiosks.
    b. In-person distribution must be done without the touching of another person.
    c. Signage promoting or providing direction to an event does not require a permit, provided the signage is posted no more than 24 hours prior to the event and is removed no later than 24 hours the day following the event. **Signage for longer periods of time require a permit.**
    d. **Materials shall not be Affixed to any part of a university building or structure without a permit** from the Department of Campus Activities.
    e. Posting on traffic signs, power poles, trees, landscaping, or automobiles belonging to others is not allowed.
    f. Tables are allowed as long as the tables do not unreasonably interfere with pedestrian traffic, to include blocking ingress or egress. Individuals who have reserved a table through the Department of Campus Activities will be given priority.
2. **Group Speech Activities, Including Rallies, Parades and Demonstrations**:
    a. Any group Speech activity, regardless of the number of expected participants, may be coordinated through the Department of Campus Activities at the discretion of the organizers.
    b. When planned activities are likely to draw 250 participants or more, notification to the Department of Campus Activities is required.

   c. When planned activities necessitate road or parking lot closures or detours, or deny others access to or reasonable use of NMSU property, a permit is required.
3. **Political Activities**: Political activities must be conducted in a manner that does not imply the university officially endorses or supports a particular candidate or position.
4. **Electronic Sound Amplification**:
   a. The use of electronic sound amplification equipment without a permit is authorized in the open lots to the east of the Pan American Center and Aggie Memorial Stadium, the Corbett Center Outdoor Stage, and the Miller Field Gates area off Espina Street, from: *8:00 a.m. to 7:00 p.m., Sunday through Thursday; and 8:00 a.m. to midnight on Friday and Saturday*
   b. Sound amplification equipment may be allowed at other times and in other locations with a permit obtained from the Department of Campus Activities.
5. **Use of Chalk**: Chalk may be used on university premises as long as it is restricted to exterior concrete walkways. All chalk used must be of a temporary or removable nature. The university's maintenance schedules relating to university facilities will not be deferred to protect chalk.
6. **Symbolic Expression Requiring a Permit**: An individual or group who plans free expression activities that involve fire, weapons, or nudity must first obtain a permit from the Department of Campus Activities. The permit requirement is not intended to impede symbolic expression, but to protect the safety of the university community and property and to ensure compliance with applicable laws. For other types of symbolic expression that an individual or group believes might generate a safety concern, advance notice to the Department of Campus Activities or to the University Police Department is encouraged.
7. **Electronic Communication (e.g, Email, Social Media)**: Similar to public spaces, electronic communication may fall within a public, limited public, or non-public Forum. The protections set forth in **Regents Policy 3.63** and these corresponding rules and procedures extend to electronic communication, with similar limitations. Where a site owned, operated, or otherwise controlled by NMSU is limited to certain members or subject matters, speakers must be authorized participants whose communications are germane to the stated subject matter. With regard to communications using electronic and other media, speakers should be aware of federal, state and university anti-discrimination laws and policies, and NMSU's obligation to enforce such laws and policies. *See, for example:* Title IX (20 U.S.C. §1681 *et seq*. and 34 C.F.R. § 106.1 *et seq*.); Title VII *(42 U.S.C. §2000e et*

*seq., as amended; and* NMSU Policies 3.25 (Discrimination, Harassment and Sexual Misconduct on Campus); 2.35.1.1.1 (Acceptable Use); and 3.99 (Prohibition of Hazing and Hostile Misconduct).

## D. Respect for University Property and Functions

1. Expressive activities in any type of public Forum shall not:
    a. Unreasonably obstruct vehicular or pedestrian traffic;
    b. Restrict public access to the entrances or exits to buildings and facilities;
    c. Permanently occupy land areas;
    d. Unreasonably interfere with or disrupt classes, university academic or administrative operations, including scheduled events;
    e. Cause damage to buildings, utilities, or landscaping;
    f. Erect structures that are dangerous or cannot be easily dismantled and removed;
    g. Cause injury or damage to persons or property;
    h. Litter or stake on University Premises contrary to **Regents Policy 3.63** and these corresponding rules and procedures;
    i. Affix materials to buildings or other structures without a permit granted by the Department of Campus Activities.
2. If there is doubt about whether expressive conduct violates the above, university officials should take effort to resolve the doubt in favor freedom of expression. Such resolution should be based on indicia of measurable disruption, damage or other clear violation, and in accordance with the standards outlined for the distinct types of Forums outlined in **Regents Policy 3.63**, Sections E. 1. E. 2, and E. 3.

## E. Sanctions

Any person determined to have violated **Regents Policy 3.63** or its supplemental rules and procedures may be subject to any of the following sanctions. The sanction(s) will be commensurate with the seriousness of the violation, and the listing below is not intended to imply that the sanction needs to be imposed in a progressive nor sequential manner.

1. Non-punitive measures, such as an educational or administrative requirement designed to bring conduct in compliance with **Regents Policy 3.63** or corresponding rules and procedures;
2. Being asked to cease and desist or to relocate by appropriate university employees acting within the scope of their duties or the police;
3. Being ordered to leave the premises or property owned or controlled by

the university by the person in charge of the property or by the police;
4. Applicable institutional disciplinary proceedings for students, faculty, staff or others, as appropriate;
5. Prosecution for violation of local, state or federal law;
6. Restriction of future use of, or access to, the university campus;
7. Reimbursement for damages.

## F. Role of Department of Campus Activities

The Department of Campus Activities, located in Room 106 of Corbett Center, coordinates competing requests for use of campus equipment or facilities, and considers requests for permits made pursuant to **Regents Policy 3.63** and these corresponding rules and procedures. Such consideration will be Content Neutral, and permission shall be granted or denied consistent with the standards for the distinct types of Forums described in **Regents Policy 3.63**, Sections E. 1,, E. 2., and E. 3 Permit requests will be reviewed and granted in a fair and consistent manner, in accordance with the standard protocols of the office.

1. **Advance Notice Encouraged**: Notice in writing to the Department of Campus Activities about a planned activity or event is encouraged, even if a permit is not required, particularly if an action or event involves reserving a table or location on campus, a potential safety issue (group expression), or other unusual prop. Advance notice provides the Department of Campus Activities the opportunity to resolve competing requests (e.g. first come first serve basis for use of some facilities), and also the opportunity to inform and coordinate as needed amongst potentially affected students or staff, offices and university facilities.
2. **Advance Notification Required**: Written notification in advance of a planned activity likely to draw 250 or more participants is required in order that the Police Department and other potentially affected units may make necessary accommodations.
3. **Permit Required- STEPS TO OBTAIN PERMIT**:
    a. To obtain an Activity Registration Form, go to: **https://campusactivities.nmsu.edu/activity-registration-form/** and follow those procedures.
    b. If the form indicates that the request relates to a community college or other University Premises, then the Department of Campus Activities will coordinate with the appropriate official(s) from the community college.
    c. The Department of Campus Activities will attempt to notify the requestor within two business days regarding the status of the request, if it has not been returned as granted.

d. If the request is granted, the requestor will receive a copy of the signed, approved Activity Registration Form (also referred to herein as "permit").
e. At the actual event, a copy of the permit should be able to be produced, upon request.
f. If the request is denied, the requestor will receive a short statement of the basis of the denial; if the requestor is not satisfied, the Dispute Resolution process outlined in **Regents Policy 3.63**, Section E. 9. will apply.

## G. **Dispute Resolution**

*See* Part 5 subsection I. above.

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 3 | Ethics, Equity and Equal Opportunity

**Rule Administrator:** Campus Presidents

**Last Updated:** 10/21/2015

## Related

**Cross-Reference:**
**RPM 1.10 - NMSU System Policies and Procedures**

**RPM 3.25 - Equal Opportunity and Prohibition of Unlawful Discrimination**

**RPM 3.63 - Freedom of Expression**

**ARP 3.25 - Discrimination, Harassment and Sexual Misconduct on Campus**

**ARP 10.10 - Staff Disciplinary Action/Involuntary Termination**

**ARP 10.50 - Faculty Alleged Misconduct Investigation, Discipline, and Appeals Processes**

**ARP 14.92 - Sales and Solicitation**

**ARP 16.21 - Restricted/Prohibited Access to Campus**

**See 2013 CBA Article 6, Section 1**

***See also:***

**ARP 3.80 – Prohibition of Hazing and Hostile Misconduct**

**ARP 15.11 – Acceptable Use of ICT Equipment and Resources**

**Procedural Guidelines Policy 3.63 – Freedom of Expression**

**Revision History:**
2017 Recompilation
10/21/2015 former Policy 3.63 replicated by Board of Regents as initial Rule 3.63, incorporating Procedural Guidelines
07/21/2015 Policies 3.63 and 3.86 revised as Policy 3.63 approved by Board of Regents, with 09/04/2015 effective date

---

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 3.70 – Academic Freedom

arp.nmsu.edu/3-70

The quest for truth often leads the scholar into difficult and untried territory. As a dealer in ideas, the teacher or researcher comes often in conflict with prevailing belief of large segments of society and even with those of colleagues. Yet, because of the practical benefits of scholarly activity, it is profoundly important that this diversity of ideas be not only tolerated, but encouraged. The right to support unorthodox positions, arrived at through scholarly investigation, free from coercion or reprisals, is fundamental to the continued progress of society. The right to pursue unpopular lines of inquiry and express new and unaccepted ideas falls within the framework of a special set of guarantees called academic freedom. In granting these guarantees, society expresses a willingness to risk the consequences because history confirms that the risk is outweighed by the benefits stemming from such a policy. Scholars are entitled to full freedom in the conduct of their research and publication of the results, and full freedom in the classroom to discuss those topics in which they are professionally experts as determined by their credentials. The exercise of this freedom carries with it the burden of corollary responsibilities. Scholars must not knowingly misrepresent facts. They must be careful in their teaching not to introduce controversial matter bearing no relationship to their subjects. They must exercise appropriate restraint and guard against distortions and inaccuracies. Outside their academic roles, as private citizens, scholars have no special privileges. When they speak or write as citizens, they should be free from institutional censorship or discipline, but their special position in the community imposes special obligations. As persons of learning and educational officers, they should remember that the public may judge their profession and their institution by their utterances. Hence they should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should make every effort to indicate that they are not speaking for the institution. Institutions of higher education are conducted for the common good and not to further the interest of either the individual scholar or the institution as a whole. The Board of Regents recognizes that it is not possible to define, with any great precision, the limits of academic freedom in the complex world of ideas. The gray areas are practically endless and the final judgment of what is acceptable and reasonable must be left by society to the academic community itself. The scholar's own colleagues and institution must bear the brunt of public criticism, have the most to lose from withdrawal of public trust, and are, therefore, in the best position to balance the issues of academic freedom and responsibility.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 3 | Ethics, Equity and Equal Opportunity

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** Not Available

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 5.05

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 3.80 – Prohibition of Bullying, Hazing and Hostile Misconduct (Non-Discriminatory)

arp.nmsu.edu/3-80

## PART 1: PURPOSE

This rule promotes a safe and healthy environment for students and employees who participate in university sponsored activities or chartered student organizations, reside in university housing, or work on campus. The rule defines and prohibits various types of hostile misconduct (not based upon discriminatory motives), clarifies how to make a report or complaint, and summarizes the action the university will take in response. The rule also protects from retaliation individuals who report an alleged violation of this rule or participate in the administrative processes related to enforcement of this rule.

## PART 2: DEFINITIONS

A. **Bullying**: An act or omission (not based on discriminatory motives prohibited by RPM and ARP 3.25) committed with the intention of intimidation or causing emotional distress or other harm, typically directed toward a person perceived to be vulnerable or less powerful.
B. **Hazing**: An act or omission (not based on discriminatory motives prohibited by RPM and ARP 3.25) committed by one or more individuals, occurring on or off campus, where:
    1. The act or omission is committed in connection with an initiation into, an affiliation with, or the maintenance of membership in, any organization. For the purpose of this policy, “organization” means an intercollegiate or intramural athletic team; chartered student organization; or other association, order, society, corps, cooperative, club, department, unit, division or similar group that is officially or unofficially affiliated with the university and whose membership consists primarily of enrolled students or employees of the university; and
    2. The act or omission creates an unreasonable risk of emotional or

physical harm, or causes actual physical harm, mental duress or degradation, or unreasonably interferes with a person's academic endeavors or progress, or work environment.

C. **Hostile Misconduct**: An unjustified act or omission or series of acts or omissions (not based on discriminatory motives prohibited by RPM and ARP 3.25), which is sufficiently severe, pervasive or persistent so as to unreasonably interfere with or limit a person's ability to participate in academic opportunities or activities, or to work productively in the workplace. Bullying and Hazing are types of conduct which may constitute Hostile Misconduct under this Rule.
D. **Retaliation**: "Retaliation" for purposes of this rule is an adverse action taken in retribution against a person who has in good faith: (1) opposed the misconduct prohibited by this rule; (2) submitted a report or complaint of any type of Hostile Misconduct; (3) assisted with or participated in an investigation, proceeding or hearing related to administration of this rule.

## PART 3: EXCLUSION FOR DISCRIMINATORY MISCONDUCT

Discriminatory misconduct is outside the purview of this rule. Misconduct based upon a protected class (age, ancestry, color, mental or physical disability, gender, genetics, serious medical condition, national origin, race, religion, sexual orientation, gender identity, spousal affiliation, or veteran status) is prohibited under RPM 3.25 and ARP 3.25, and must be reported to Office of Institutional Equity. In such cases OIE will coordinate with Employment & Labor Relations (HR-ELR) or the Dean of Students office regarding appropriate administrative, disciplinary or corrective action based on the investigative findings.

## PART 4: PROHIBITED MISCONDUCT

A. **Prohibition of Hostile Misconduct and Retaliation**: Hostile Misconduct and Retaliation are prohibited. Students and employees participating in such misconduct are subject to disciplinary measures. External parties engaging in such conduct may be banned from the campus or subject to other sanctions. The acquiescence or consent of the individual subjected to the misconduct constituting Hostile Misconduct is not a defense. The following non-exhaustive list describes conduct that may contribute to a finding of a violation of this rule, if substantiated by the facts:
    1. Abusive or demeaning verbal acts or name calling; graphic and

written statements in any media (e.g. texting, email, social media);
2. Threats of harm or actual harm;
3. Physical abuse, such as whipping, beating, branding, pushing, shoving, or tackling, use of physical restraints or objects;
4. Forced physical activity, such as consumption of food, liquor or drugs, or sleep deprivation;
5. Theft and/or destruction of property;
6. Yelling, screaming, or calling members (prospective or actual) demeaning names, or restricting or substantially altering an individual's regular routines, including social interaction;
7. Conduct that a reasonable, similarly situated individual would consider humiliating and or degrading to others;
8. Forcing, requiring or endorsing another individual, including but not limited to prospective or new members of organization, to violate university policies, organization/association bylaws, team rules and/or any local, state, or federal law.

## PART 5: DUTY TO REPORT AND COOPERATE

The prevention of Bullying, Hazing, Hostile Misconduct and Retaliation is the responsibility of every member of the university community. Each organization, association, athletic team, department, unit, division, as well as each individual student and employee must report incidents believed to be associated with Bullying, Hazing, Hostile Misconduct or Retaliation and cooperate with any investigation as requested by the involved NMSU offices. Complaints or reports of non-discriminatory Bullying, Hazing, Hostile Misconduct or Retaliation are to be made as follows:

A. **Charged Party is NMSU Student**: When the person alleged to have violated this rule is a student or associated with a student organization recognized by NMSU, complaints and reports must be made to the Dean of Students office. If a student reports to an employee of NMSU, the employee must promptly forward the report to the Dean of Students office.
B. **Charged Party is NMSU Employee**: When the person alleged to have violated this rule is an employee or associated with any faculty or staff organization recognized by NMSU, complaints and reports should be made to HR-ELR. Any supervisor receiving such a report must promptly forward the report to HR-ELR.
C. **Charged Party Not NMSU Student or Employee**: Students should seek guidance from the Office of the Dean of Students and employees from HR-ELR for misconduct alleged to violate this rule that is committed by a third party who is neither student nor employee but occurs on campus

or involves a university sponsored event or organization.

D. **Criminal Misconduct**: The reporting required above is not exclusive. Criminal misconduct should always be reported to the NMSU Police Department or other relevant law enforcement agency, in addition to the appropriate administrative unit, as indicated above.

## PART 6: NMSU RESPONSE AND RESOLUTION

A. **Initial Review**: Complaints and reports will be reviewed upon receipt and assessed based upon the risk of harm alleged. Complaints or reports which do not allege facts that would violate this rule will be dismissed. The complainant or reporter will be notified regarding whether the complaint was accepted for investigation or dismissed.

B. **Fact Finding Investigation**: When warranted by the allegations, the appropriate NMSU office (HR-ELR or Dean of Students office) will conduct a fact-finding investigation in accordance with their standard procedures.

C. **Standard to Determine Violation**: A violation of this rule occurs when the investigating office evaluates the evidence and finds, by a preponderance of the evidence, that the alleged Hostile Misconduct was sufficiently severe, pervasive or persistent such that a similarly situated reasonable person would be significantly and adversely impacted in their ability to benefit from the educational or work opportunities provided by the institution. A violation also occurs when the investigating offices finds that an adverse action was threatened or taken against an individual and was motivated by the individual's act of reporting Hostile Misconduct or participation in the resolution of a Hostile Misconduct allegation.

D. **Corrective/Disciplinary Action for Violators**: Students or employees found to have violated this rule are subject to disciplinary action, imposed through the applicable university procedures. The relevant appeal process provided in policy relating to the specific disciplinary action will be available to any individual found in violation of this rule.

E. **Relief for Affected Individual(s)**: HR-ELR and the Dean of Students office will implement protective and remedial measures determined to be appropriate and necessary to prevent further acts of Hostile Misconduct and to remedy the effects upon those who are adversely impacted by Hostile Misconduct. Other NMSU units will cooperate with reasonable requests designed to implement protective and remedial measures.

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 3 | Ethics, Equity and Equal Opportunity

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 01/09/2019

## Related

**Cross-Reference:**

**Revision History:**

01/09/2019 Amendment approved by Chancellor
2017 Recompilation, formerly Rule 3.99
03/14/2011 Amendment approved by Board of Regents
07/29/2009 Policy adoption approved by Board of Regents
10/14/2008 Policy approved by Administrative Council

© 2017 New Mexico State University - Board of Regents

# Chapter 4 | Curriculum and Class Management

## Subsections in Chapter 4


- 4.02 – Student Admission and Residency Processes in Relation to Immigration Status
- 4.03 – Course Registration Deadline Waiver
- 4.21 – Registrar
- 4.23 – Credit Hour Calculation; Variable Credit Courses
- 4.41 – Course Materials/Textbooks
- 4.45 – Faculty Adherence to Clourse Schedule
- 4.46 – Authorized Absences from Class
- 4.47 – Class Disruption/Interruption
- 4.50 – Examinations/Tests
- 4.55 – Grade Reports
- 4.61 – Transfer Credit
- 4.62 – Articulation Agreements
- 4.65 – General Education Coursework Required for Graduation
- 4.66 – Independent Studies
- 4.67 – Military Science Coordinator
- 4.68 – Course Curriculum Changes
- 4.69 – Academic Rules for Distance Education
- 4.70 – Embargo of Dissertations or Master's Theses
- 4.71 – Experiential Learning Component for NMSU Academic Programs
- 4.81 – Degrees, Majors, Minors and Other Academic Programs of Study
- 4.82 – Transcript Notations
- 4.83 – Commencement


Go to RPM

ARP Crosswalk

Search for:

Search ...

Search

## ARP Contents

Chapters 1 – 5

Chapters 6 – 10

Chapters 11 – 15

Chapter 16 – 18

Appendices

Filter by Rule Administrator

Select

Submit

**Last Updated:** 06/16/2017

## Related

**Cross-Reference:**
**Revision History:**

© 2017 New Mexico State University - Board of Regents

**Last Updated:** 06/16/2017

## Related

**Cross-Reference:**
**Revision History:**

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 4.02 – Student Admission and Residency Processes in Relation to Immigration Status

arp.nmsu.edu/4-02

The rules and regulations for establishing student residency for tuition purposes are defined by the New Mexico Higher Education Department which is authorized by the Constitution of the State of New Mexico and state statutes.

**A.** All international students entering the United States on a non-immigrant student visa will apply for admission through the Office of International Admissions Program located in Garcia Annex. Consult the Undergraduate Catalog section on Foreign Students for specific restrictions and procedures (*NMSU Undergraduate Catalog*).

1. Any non-citizen entering an institution of higher education on a non-immigrant visa (*e.*, student, diplomatic, visitor or visiting scholar), including spouses and dependents, shall be classified as a non-resident for tuition purposes.

**B.** All legal immigrants (permanent residents), partially documented, undocumented or refugee students, who have attended a secondary educational institution in New Mexico for at least one year *and* have either graduated or received a general education development (GED) certificate in New Mexico, will apply for admissions through the Office of Undergraduate Admissions located in the Educational Services Building.

1. Legal immigrants or refugees must present documentation of their status to the Office of Admissions and Office of the Registrar.
2. Students meeting requirements may be eligible for in-state tuition as determined by the Office of the Registrar in accordance with the State of New Mexico Higher Education Department (state.nm.us).
3. Students eligible for in-state tuition may be eligible for state-funded financial aid.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 4 | Curriculum and Course Management

**Rule Administrator:** Registrar

**Last Updated:** 09/08/2006

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 6.87

09/08/06 Policy adoption approved by Board of Regents

09/13/05 Policy adoption approved by Administrative Council

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 4.03 – Course Registration Deadline Waiver

arp.nmsu.edu/4-03

## PART 1: PURPOSE

This rule establishes the criteria which justify the grant of a waiver of the administrative deadline for requesting a course registration change (e.g. drop/add or withdrawal), and establishes the review and approval process required before the waiver may be effectuated.

## PART 2: CRITERIA

A student may petition for a waiver of the administrative deadline for course registration changes, including drop/withdraw from a course, after the administrative deadlines for the relevant enrollment term has passed, if any of the following criteria are met:

A. The student was prevented from dropping or withdrawing due to illness, injury, or personal emergency of the student or a member of the immediate family;
B. The student was given misinformation as to the correct deadline for dropping a course or withdrawing from the university;
C. The student never attended the class, nor submitted assignments, nor completed examinations;
D. The student did not attend class beyond the deadline to drop/withdraw;
E. Administrative errors were made in handling the withdrawal/drop process;
F. The student was performing military duties, including but not limited to a scheduled deployment;
G. Other circumstances beyond the control of the student prevented the student from meeting the drop/withdrawal standard administrative deadline.

## PART 3: DECISION MAKING AUTHORITY

A. A petition for a waiver is granted only when both recommended for approval by the associate dean for academics of the college of the student's major, or the community college vice president of academic affairs, as appropriate (College Academic Officer), and accepted by the Director of University Student Records Office (Registrar).
B. Any petition which does not receive approval from both the College Academic Officer and acceptance by the Registrar is denied, subject to appeal to the Office of the Executive Vice President and Provost.
C. Petitions for deadline waivers submitted more than one year from the end of the relevant academic term will be denied, except in extraordinary situations, and only after heightened scrutiny to ensure compliance with state and federal reporting, budget and other legal requirements.

## PART 4: PROCEDURES

A. **Form of Petition**: The form of petition (approved by the Registrar and the Associate Deans Academic Council), must provide notice to students that a possible consequence of a retroactive withdrawal is a requirement to repay the university the amount of any disbursement of financial aid for the pertinent enrollment period, in accordance with federal US Department of Education regulations. The form for Petition for Waiver of Course Registration Change Deadline is available on the website of the University Student Records Office.
B. **Notifications**: The petition form will also include the student's official NMSU email address, or if no longer active, another current email address. All written notifications required under this rule will be given in person using an official NMSU email address, or in the case of the student, if no longer active, the email address provided in the Petition, and will be deemed received on the first business day after dispatch.
C. **Initiation of Request**: A waiver request is initiated when the student, or person authorized to act on behalf of the student, submits the completed and signed petition form with an explanation of the circumstances justifying the waiver request, to the office of the College Academic Officer.
D. **Review and Decision by College and Registrar**:
    1. The College Academic Officer will consider the facts outlined in the petition, review the student's academic records and other relevant information, and issue a written recommendation. The recommendation will indicate whether or not the request justifies a late course registration change, in accordance with the criteria set forth above. Issues to be considered when determining whether to approve the petition include whether the circumstances prevented

the student from dropping the course(s) within the drop/withdrawal deadline, and inconsistencies, if any, relating to which courses were requested to be dropped.

2. The College Academic Officer will forward the petition with their recommendation to both the student and to the Registrar. Where the College Academic Officer disapproves a petition, this is the notification to the student of the decision, which may be appealed as set forth below.
3. In instances where the College Academic Officer recommends in favor of the waiver, the Registrar will then accept or decline the recommendation within no more than 30 days (if additional time is needed, an extension may be granted upon request to the relevant major dean or community college president).
4. Upon approval of a waiver request, the Registrar will process the registration change and provide written notification to the student, Financial Aid, and University Accounts Receivable.
5. Upon disapproval of a waiver request, the Registrar will provide written notification to the student, the University Student Records Office, University Financial Aid and Scholarship Services, and University Accounts Receivable.

E. **Appeal to Provost for Final Review**:

1. If the petition for a waiver of the deadline is declined by either the College Academic Officer or the Registrar, the student may seek a final review of the matter by submitting a written appeal within thirty (30) calendar days from receipt of the decision. The written appeal will include the student's position statement regarding why the waiver request was improperly denied.
2. The student, or a person authorized to act on behalf of student, must submit the written appeal to the relevant College Academic Officer, who will forward the appeal to the Office of the Provost, including all documentation relating to the decision. The College Academic Officer and the Registrar each have the option to also submit a response to the appeal, with a copy delivered to the student.
3. The provost or designee will consider the points made in the appeal, the documentation relating to the decision being appealed and any response to the appeal and will then issue a final decision to the parties within 30 days after receipt of the appeal upholding, modifying or reversing the decision. The student, the relevant College Academic Officer, Registrar, University Financial Aid and Scholarship Services, and University Accounts Receivable will be notified of the decision, and in the case of a modification or reversal, the Registrar will process any course registration change

mandated by the decision.

F. **Amendment of Student Educational Record**: Upon approval of a waiver of the deadline and the processing of a post-deadline registration change, in those cases where the students record is amended to provide a course withdrawal (rather than a drop), the student will receive a “W” grade unless the course instructor and the College Academic Officer recommend an “I” grade as more appropriate.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 4 | Curriculum and Course Management

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 11/13/2018

## Related

**Cross-Reference:**
**Revision History:**

11/13/2018 Amendment approved by Chancellor
2017 Recompilation, formerly Rule 6.92
05/08/2015 Amendment to Policy 6.92 approved by Board of Regents

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 4.21 – Registrar

arp.nmsu.edu/4-21

The University Student Records Office cannot provide official academic information to unauthorized persons, nor can it reduce the amount of information obtained in the registration process below what is required by the New Mexico Higher Education Department, state statutes, and the National Center for Education Statistics. In these requirements, the University Student Records Office follows the minimum recommended by the American Association of Collegiate Registrars and Admissions Officers. Strict adherence to academic policies is an integral part of record integrity. A balance must be maintained between public relations and the responsibilities of record-keeping.

## PART 1: DUTIES OF THE REGISTRAR

A. Record and preserve academic data on all students registered for credit at the main campus and at the community colleges.
B. Determine assignment of resident or nonresident tuition and fees, in accordance with state law and the uniform definition established by the New Mexico Higher Education Department and the Attorney General's Office.
C. Submit reports of official enrollment statistics to the New Mexico Higher Education Department and to the National Center for Education Statistics.
D. Develop procedures for registration of students in any program in which academic credit is issued.
E. Coordinate preparation of a schedule of classes for each academic semester or summer session.

## PART 2: TRANSCRIPT OF CREDIT

Upon written request, the University Student Records Office will furnish, for a reasonable fee (as approved by the Chancellor and published on the University Student Records Office website), an official transcript of a student's academic record to the student or designee.

## PART 3: TRANSCRIPTS

Transcripts will not be furnished without the student's consent if the student is 18 years of age or over, except as requested by a parent claiming the student as a dependent under the definition established by the Internal Revenue Service. If a student is under 18, the parents may request and receive a transcript of the academic records. The University Student Records Office will also furnish to the student, upon written request, an information copy of the student's academic record. Transcripts, either official or unofficial, may be furnished to university faculty members or professional staff members upon request, with or without the student's permission. Prior to each advisement period, information copies are produced for the advisors.

## PART 4: RELEASE OF STUDENT INFORMATION

Information concerning a student that is published in the official student directory may be released to anyone requesting such information. This information will be published unless a request to withhold is received by the registrar by the last day of late registration for the fall term (Buckley Amendment – PL 93-380). Information recorded on the academic record page and in the student's file is released according to the procedures covering issuing of transcripts. Information in the student's folder is confidential, and is not released except to those authorized under the Buckley Amendment to PL 93-380 and The Family Educational Rights and Privacy Act of 1974. (*See* **ARP 5.40**)

## PART 5: ELIGIBILITY FOR REGISTRATION

Students under any type of sanction may not register until the sanction is removed by the appropriate office. On-line entry or clearance of sanctions is entered by the university agency involved. Students on scholastic suspension may apply for readmission and register when eligible. Students with disabilities may petition for early registration through the Office of Services for Students with Disabilities Office, Room 100, Garcia Annex.

## PART 6: STATISTICAL DATA

Certain statistical data are required from the student in order to furnish data to the New Mexico Higher Education Department, the National Center for Education Statistics, and university officials. Other information required is for identification of student records. Registration of students who refuse to furnish requested data is subject to cancellation.

## PART 7: ESTABLISHING RESIDENCE STATUS FOR TUITION PURPOSES

This responsibility, delegated to the registrar, is based upon state law and various rulings from the New Mexico Higher Education Department and the Attorney General's Office. The general counsel may be consulted by the registrar in cases where legal advice seems warranted. Determination is made by the registrar on the basis of information and affidavits submitted by the student. The burden of proof is on the student, and the final decision will be made by the university. Information on residence requirements may be obtained from the University Student Records Office. The admissions office determines residency for tuition purposes for first-time applicants.

## PART 8: RELEASE OF REGISTRATION STATISTICS TO THE PRESS

Final or near final registration statistics are released by the registrar through the vice president for student success and enrollment management to the associate vice president for university communications and marketing services, who in turn furnishes such figures to the media. Such release is not made until the close of registration. Any university official may release final enrollment figures after they are published.

## PART 9: RECORDING ACADEMIC AND DEMOGRAPHIC DATA ON THE ACADEMIC RECORD

University Student Records Office updates and corrects data entered by admissions on the student's record at the time of matriculation. The following data are entered: last name, first, middle/maiden; date of birth; college or school to which admitted; degrees granted from the university ; date of degrees; major field; minors; other institutions attended, and credits granted; high school last attended; admission status; and social security number or alternate identification

number. Also recorded on the undergraduate academic record page, upon approval by the academic dean, are allowable credits from military service, challenged courses, CLEP, or ACT. Such credit will be treated as transfer credit without a grade, will count toward graduation, and may be used in fulfilling curriculum requirements as specified by the student's academic college.

## PART 10: REGISTRATION

Eligible students may reserve courses in the offices of the academic deans or on-line by computer, as determined by the academic calendar. Subsequent schedule changes may be made on the dates published in the Schedule of Classes. Students with disabilities may petition for early registration through the Office of Services for Students with Disabilities, Room 100, Garcia Annex. Eligible students may complete registration by mail, phone, Web, or in person by making a minimum down payment to the Office of University Account Receivable. Students who reserve classes but fail to complete registration by the published deadline will be disenrolled from all classes. At the close of the drop/add/late registration period, students who have not made the required payment will be disenrolled from all classes and may not attend until the next scheduled session.

## PART 11: ACADEMIC SCHEDULING

See **ARP 4.23 – Credit Hour Calculation; Variable Credit Courses**.

## PART 12: GRADE REPORTING TO THE REGISTRAR

Faculty members report grades for students in their classes, through the department head and dean, on forms furnished by the registrar. It is the responsibility of the faculty member to submit these grades according to regulations and dates recommended by the Faculty Senate and approved by the president. Subsequently a list of grades assigned is sent to each instructor for verification.

## PART 13: JUSTIFICATION OF I

An I Grade Information Form shall be sent to the dean's office with instructor's grade sheet for each I grade assigned. Forms are available in the offices of the academic deans.

## PART 14: PROCEDURES FOR APPROVAL OF DEGREE CANDIDATES

A. Three days (1 day in summer) after final grades are recorded on-line, the University Student Records Office will furnish each academic dean a list of degree candidates, showing the results of the final record check.
B. The deans' offices will confirm candidates who have met all requirements, and delete those who have not.
C. The deans will certify graduation for the candidates listed.
D. The University Student Records Office will furnish the executive vice president and provost a list of approved degrees after the deans' certifications are received. The official graduation date will be the date degrees are approved by the executive vice president and provost.
E. The University Student Records Office will record degrees approved and mail diplomas to graduates.

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 4 | Curriculum and Course Management

**Rule Administrator:** University Student Records Office

**Last Updated:** 06/27/2016

## Related

**Cross-Reference:**
**ARP 4.23 - Credit Hour Calculation; Variable Credit Courses**

**ARP 5.40 - Access to Student Educational Records – FERPA Compliance**

**Revision History:**

2017 Recompilation, formerly Rule 6.86
06/27/2016 Amendment approved by Board of Regents
06/08/2016 Amendment to Policy 6.86 approved by provisional authority of Chancellor.

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 4.23 – Credit Hour Calculation; Variable Credit Courses

arp.nmsu.edu/4-23

## PART 1: PURPOSE

This Rule establishes how credit hours are calculated.

## PART 2: DEFINITIONS

A. **Credit Hour**: Conventionally, the "Carnegie" Credit Hour is defined as one Class Hour of contact time (with an expectation of two hours of outside work) per week over a 15 week semester.
B. **Class Hour**: A Class Hour must be a minimum of 50 minutes. A class must meet at least 750 minutes a semester for one credit (2250 minutes for the standard 3 credit lecture class).

## PART 3: REQUIREMENTS RELATING TO CREDIT HOUR CALCULATION

In accordance with federal guidelines, academic Credit Hours for a course are determined by the amount of time students are engaged with the course content. NMSU's established equivalency for courses bearing academic credit reasonably approximates and is not less than:

A. One semester hour of credit is awarded for 750 minutes (12.5 hours) of faculty instruction and a minimum of 1800 minutes (30 hours) of independent student work. Students must be engaged in course activities for 2550 minutes (42.5 hours) per Credit Hour (e.g. a fifteen week semester is equivalent to one 50 minute period of instruction and two hours of out-of-class work each week), or
B. At least an equivalent amount of work, as required in paragraph (1) of this definition for other academic activities as established by the institution, including laboratory work, internships, practicum, studio work, and other academic work leading to the award of Credit Hours.

C. For hybrid and online courses, which do not meet the faculty contact requirements, credit is awarded based on the equivalent face-to-face course or by assessing the amount of work required by the student.
D. For laboratory courses or courses that contain laboratories, 2P is equal to 100 minutes of laboratory time for a 15 week term (1P is equal to 50 minutes). For example, a course consisting of 3-cr. (2+2P), would require at least 100 minutes of lecture and 100 minutes of laboratory per week for 15 weeks.
E. One semester credit of field experience requires a minimum of 40 hours of direct experience. Cooperative education credits and limits are determined by the department overseeing the cooperative education.
F. For undergraduate research experiences a minimum of 360 minutes per week for 15 weeks is equivalent to 1 credit.

# PART 4: LISTING OF COURSES IN THE CATALOG(S)

A. **Use of the Term "Variable"**: The term variable in the class schedules and catalogs shall be reserved for the following courses only: 599, 600, 699 and 700.
B. **Listing of Credits**: Courses showing variable credits X-Y (for example, 1-3) are limited to a maximum of 9 credits. That is, they may be listed for 1-9 credits, but not 1-10. Following the course description or title there should be a statement in regard to the maximum credit which may be taken for any given semester and the total maximum credits.
C. **Published Format**: In the published class schedule the word variable following a course shall be applied to those courses in paragraph A. above. Courses referred to in paragraph A. above will be scheduled 1-3, 1-4, etc., according to the maximum credit which may be taken for any given semester.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 4 | Curriculum and Course Management

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 05/10/2017

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 6.26 Parts 1-4

05/10/17 Amendment approved by Chancellor

12/09/16 Repeal of Policy 6.26 from Regents Policy Manual approved by Board of Regents

10/21/15 former Policy 6.26 replicated by Board of Regents as initial Rule 6.26

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 4.41 – Course Material/Textbooks

arp.nmsu.edu/4-41

## A. Course Material

Department heads are responsible for having on file a course outline for each course offered by the department. Each professor is responsible for course content and selection of required materials (textbook(s), supplementary printed material, equipment, supplies) for the course. The professor is obligated to keep course costs to the student as low as possible. The department head is responsible for the approval of bookstore requests, requests for supplementary materials, and for the coordination of requirements for multiple sections. The department head should be cognizant of course costs to students and advise the professors should such costs appear to be excessive.

## B. Textbooks

All textbook orders from faculty must be channeled through the department head for signature and approval and then forwarded to the bookstore manager. The bookstore manager will review departmental requests for textbooks and order as per the department head's request. Order quantities may be increased or decreased by the bookstore manager if previous enrollment or sales history indicates that it is necessary. Department heads must notify the bookstore manager immediately when additional sections are opened or courses canceled. Faculty will not be allowed to order and/or sell books on or off campus without written approval from the appropriate dean and the bookstore manager. Before a faculty member may require students to buy a textbook or other material authored or coauthored by that faculty member, approval from the department head is required. The department head may convene a committee of department faculty to consider the matter. If the department head is the author/coauthor of the required textbook or other material, a committee of department faculty will consider the matter and make a recommendation to the dean, whose approval will be required. Supplementary materials, published or unpublished, produced by departments or individuals for sale to students will be sold through the university Bookstore or through other vendors who are authorized to purchase such materials from departments only, not from individual faculty members. Payment by

the vendors shall be made to the department upon receipt of an appropriate departmental voucher or invoice. Faculty and staff members may request reimbursement from their departments for their expenses.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 4 | Curriculum and Course Management

**Rule Administrator:** Executive VP and Provost

**Last Updated:** Not Available

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 6.40

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 4.45 – Faculty Adherence to Course Schedule

arp.nmsu.edu/4-45

## PART 1: CLASS AND ACADEMIC MEETING LOCATIONS

Classes will be held  at the time and the location listed in the course schedule, except as required by the course curriculum as may be arranged with notice to their department head or appropriate academic administrator.  Faculty will not meet with students at private off-campus locations to conduct academic or university business, even if requested by the student, except as a reasonable accommodation vetted through Student Accessibility Services or the Office of Institutional Equity and notice to the department head or appropriate academic administrator.

## PART 2: CLASS CANCELLATION

For assessment and accreditation purposes, classes must meet the required number of hours per credit per semester (See **ARP 4.23**); therefore, classes are not to be canceled, including during Final Exam Week, without prior approval from the department head or other academic administrator, as appropriate.

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 4 | Curriculum and Course Management

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 10/09/2019

## Related

**Cross-Reference:**

ARP 6.86 - Faculty Availability and Office Hours for Students

**Revision History:**

10/09/2019 Amendment approved by Chancellor (as part of revision to ARP 6.86)
2017 Recompilation, formerly Rules 6.20 & 6.26 Part 6
05/10/2017 Amendment to Rule 6.26 approved by Chancellor
12/09/2016 Repeal of Policy 6.26 from Regents Policy Manual approved by Board of Regents
10/21/2015 former Policy 6.26 replicated by Board of Regents as initial Rule 6.26

---

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 4.46 – Authorized Absences from Class

arp.nmsu.edu/4-46

A. Absence from class will be excused for the reasons listed below, with the expectation that students will be permitted to, and will be responsible for, making up course work missed due to an excused absence.
   1. The student is representing the university at a function or event, and is making satisfactory progress in the class (e.g. ASNMSU officials representing the university at a legislative session, student-athletes competing in university scheduled athletic events, students traveling to a university-approved educational field trip or conference).
   2. The student is legally obligated to participate in training or has received a military deployment as an active member of the military or Reserve/National Guard. Students will provide the Military and Veterans Programs Office with official military documentation (paper, electronic orders or a Unit's memorandum) with as much advance notification as possible.
   3. The student is obligated to attend or participate in a court or legal proceeding by summons or subpoena (e.g. to serve as a juror, to testify as a witness).
   4. The student has requested a reasonable accommodation based on a conflict between an academic requirement and a religious practice or belief.
   5. The student has been granted a reasonable accommodation consistent with the Americans with Disabilities Act of 1990 as amended and/or Section 504 of the Rehabilitation Act of 1973, amended as documented by either the Student Accessibility Office or the Office of Institutional Equity.
   6. The student is subject to an interim measure in accordance with Title IX of the Education Act of 1972, as amended, as documented by the Office of Institutional Equity.

B. Absences based on extenuating circumstances outside the control of the student other than those listed above may be excused at the discretion of the faculty member.

C. The reasonable accommodation process for coursework that cannot be made up as originally assigned (e.g. group projects/presentations) shall be coordinated between the student and the faculty member. The process may be facilitated by Student Accessibility Services, the Office of Institutional Equity, Dean of Students, Graduate School Dean, and/or other relevant entities at the request of either student or faculty member.

D. The student or third party on behalf of the student should provide advance written notice when possible. Documentation supporting the excused absence must be presented to the faculty member for inspection, who will record the excused absence and return the documentation to the student.
E. Students aggrieved by a faculty member's decision relating to this rule may file a grievance in the appropriate forum (e.g. Office of Institutional Equity for discrimination based complaints and the student grievance process for non-discrimination based complaints).

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 4 | Curriculum and Course Management

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 02/13/2018

## Related

**Cross-Reference:**
**Revision History:**

02/13/2018 Amendment approved by Chancellor;

Recompiled 2017, formerly Rule 6.16;

10/21/2015 former Policy 6.16 replicated by Board of Regents as initial Rule 6.16.

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 4.47 – Class Disruption/Interruption

arp.nmsu.edu/4-47

Any disruption or interruption of classes is to be reported promptly to the department head, who will in turn inform the dean and the dean will inform the executive vice president and provost.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 4 | Curriculum and Course Management

**Rule Administrator:** Executive VP and Provost

**Last Updated:** Not Available

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 6.25

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 4.50 – Examinations/Tests

arp.nmsu.edu/4-50

## A. Exam Week

Normally, every class meets at least 750 minutes per credit hour. The registrar will schedule the sixteenth week of instruction of each regular semester in 2-hour blocks. These blocks may count toward the 750-minute minimum per credit hour if necessary, or it may exceed the 750-minute rule. In either case, the exam week class time is not optional and must be used for some culminating activity, whether or not the instructor requires a final exam.

## B. Exam Schedule

The examination schedule will be included in the class schedule at registration.

## C. Completion of Fall Semester Prior to Holiday

The fall semester will be completed before the winter holidays.

## D. Length of Examinations During Last Week of Regular Classes

Faculty are not allowed to hold examinations lasting more than one class period during the last week of regular classes. In addition, faculty can only reschedule exams outside of the regularly scheduled exam period with the unanimous consent of the students and permission of the department head.

## E. Student Grievance

Students who feel that their rights have been violated should contact the respective

department head.

## F. Maximum of Three Final Exams Per Day

During exam week, a student cannot be required to take more than three exams in 1 day. Instructors of exams that would occur after the third must permit the student to take the exam at another time if the student desires. Any student having more than three examinations scheduled in any 1 day may notify the instructor of the last examination listed and ask for alternate arrangements to be made for examination. If the fourth exam is a departmental exam, the instructor of the third exam will make alternate arrangements.

## G. Advance Coordination of Final Exams/Term Papers

Each faculty member will be requested by the deans to announce intentions as to final examinations and term papers during the first week of the semester.

## H. Advance Resolution of Final Exam Scheduling Conflicts

Also, the faculty member will request students with problems of scheduling to report them to the office of the college dean.

## I. Priority in Scheduling

A regularly scheduled evening class will have precedence over examinations scheduled in other courses outside the normal class meetings.

## J. Alternate Exam Time

When a conflict occurs, the department scheduling the examination will arrange for students to complete the examination at another time.

## K. Student Review of Final Exam or Term Paper

Students shall be permitted to see any examination or test paper upon request within a reasonable period of time after the conclusion of the test.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 4 | Curriculum and Course Management

**Rule Administrator:** Executive VP and Provost

**Last Updated:** Not Available

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 6.60

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 4.55 – Grade Reports

arp.nmsu.edu/4-55

## PART 1: OVERVIEW OF NMSU GRADING SYSTEM

Each course, department or instructor establishes the system for assessing student performance in achieving course learning objectives and provides this information through the course syllabus. Individual instructors may elect whether to use fractional grading (pluses and minuses) in assigning letter grades. For some courses, instructors are required to report Early Performance grades (*See Part 5 below*), and at the conclusion of all courses, instructors are required to report a final grade reflecting the instructor's assessment of each student's performance.

The NMSU grading system is expressed in letters which carry numeric value used in calculating the cumulative grade-point average, as shown in this table:

**University Grading System**

| Letter Grade | Grade Points per Unit of Credit |
|---|---|
| A+ | 4.0 |
| A | 4.0 |
| A- | 3.7 |
| B+ | 3.3 |
| B | 3.0 |
| B- | 2.7 |
| C+ | 2.3 |
| C | 2.0 |
| C- | 2.0 |
| D+, D, D- | 1.0 |

| University Grading System | |
|---|---|
| **Letter Grade** | **Grade Points per Unit of Credit** |
| F | 0 |
| **Grades that are not calculated into Grade Point Averages** | |
| W- Withdrawal | 0 |
| N- Grade not submitted | 0 |
| CR- Credit authorized, but not letter grade | 0 |
| IP- In progress | 0 |
| RR- Progress in undergraduate course | 0 |
| PR- Progress in graduate research | 0 |
| S- Satisfactory work[1] | 0 |
| U- Unsatisfactory work | 0 |
| I- Incomplete work | 0 |
| AU- Audit | 0 |

[1]S grades are grades that are satisfactory to the professor and are normally equivalent to the letter grade of C- or higher.

# PART 2: GRADE DESIGNATIONS OTHER THAN A-F

## A. SATISFACTORY/UNSATISFACTORY (S/U)

Each academic college may designate courses in which the grading will be on a basis of S or U for all students enrolled in the courses. Credits in designated S/U courses are not included in the limitations on the number of S/U credits a student may take, and are not subject to the student eligibility requirements described below.

S/U grading allows the student to attempt to earn course credit without having a course grade included in their grade point average calculations. Under S/U grading, the instructor assigns an S grade for satisfactory achievement of the course learning objectives (normally equivalent to the letter grade of C- or higher) and a U grade for unsatisfactory performance in the class.

### 1. Undergraduate Students

The S/U option must be elected as part of the course registration and may not be added once the course registration period closes. Other than honors courses and courses officially designed as S/U, the following limitations apply to courses in which the S/U option is elected:

1. No more than 7 credits per semester or 4 credits per summer session.
2. Not to exceed a total of 21 credits towards a degree.
3. Not a required course for the student's major.

### 2. Graduate Students

With an approval from their advisor and department head, graduate students in good academic standing may elect the S/U option, at the time of registration, for courses taken outside the major department, subject to the regulations stated below:

1. No more than a total of 6 credits of elected S/U courses are permitted in the master's degree.
2. Doctoral candidates may take an additional 6 credits under the S/U option after application to candidacy.

## B. RR Grade

The letter grade of RR is assigned only in undergraduate developmental courses (CCDE, CCDL, CCDM & CCDR) and indicates that the student has made substantial progress toward completing the requirements of the course. It carries neither penalty nor credit, so a student must re-enroll and successfully complete the course in order to earn credit. The grade of RR may be received only once in any given course, and is a permanent notation on the student's transcript.

## C. W Grade

The letter grade of W (Withdrawal) is assigned only in courses when the student withdraws or is administratively dis-enrolled from the course after the last day to drop the course. The W grade is permanent.

## D. I Grade

The letter grade of I (Incomplete) is assigned for passable work that could not be completed due to circumstances beyond the student's control that develop after the last day to withdraw from the course. In no case is an I grade to be used to avoid the assigning of D, F, U or RR grades for marginal or failing work. Examples of appropriate circumstances include documented illness, documented death or crisis in the student's immediate family,

unexpected military deployment and similar circumstances. Other job-related circumstances are generally not appropriate grounds for assigning an I grade. Under no circumstances should the instructor retain any medical records or indicate the specifics of any medical condition in the academic records. The refusal to grant an I grade may be appealed in the same manner as any other final grade.

To assign an I grade, the instructor must complete the "I Grade Information Form" and have the form delivered to the Associate Dean of the college under which the course is taught. The instructor must indicate on the form whether the student will be given the option to complete the remaining coursework and have the I grade changed to the earned letter grade. If so, the instructor should indicate the steps necessary to complete the remaining coursework. The I grade form should either be signed by the student in person, or the Associate Dean must send a copy of the document to the student's official NMSU email address, as recorded in the Registrar's Office, with a notation on the form that the student was not available for signature.

The I grade will be permanent in instances where (1) the instructor did not provide an option to complete the coursework, (2) the instructor left NMSU prior to completion of the coursework and grade change, or (3) the student failed to complete the coursework by the relevant deadline, and the instructor did not indicate that the I grade would be changed to the earned grade upon failure to complete. In such instances, the student will be required to re-enroll in the course to receive credit (in which case the permanent I grade and the subsequent earned letter grade will both appear on the transcript).

The student is entitled to have the I grade removed from the transcript only if, within 12 months or any earlier deadline established by the instructor on the "I Grade Information Form" and prior to graduation, the student completes the remaining coursework, as specified on the Form, in a manner satisfactory to the instructor. If the student fails to complete the coursework, the instructor may change the I grade to any appropriate grade (including D, F or U) only if the instructor stated that this would occur on the "I Grade Information Form." The instructor should assign whatever grade was earned for the entire course.

To change the I grade, the instructor must complete a "Change of Grade Form," obtain the signature of the Associate Dean for the course, and submit the form to the Registrar's Office.

## E. Grading in Research – PR

Grading in Research – In grading both master's and doctoral research, thesis and dissertation work in progress, the instructor reports for each enrollment period the grade PR (progress) or U (unsatisfactory) rather than a traditional letter grade. These assigned grades are permanent notations on the student's transcript. Only those credits graded PR (Progress) accumulate toward the minimum number of research credits required.

PR indicates that the student has devoted an adequate amount of time to the work scheduled but does not indicate the quality. U indicates that the student has stopped work or is doing work of unacceptable quality.

At the conclusion of the final examination, or when the thesis/dissertation is submitted for the final signature of the graduate dean, the instructor will report the final S or U grade for the research. If a student accumulates a total of two U (unsatisfactory) grades in courses numbered either 598, 599, 600, 699 or 700, the student will be placed on Academic Probation I. If three U (unsatisfactory) grades are reported for these courses, the student will be dismissed from the Graduate School.

# PART 3: GRADE POINT AVERAGE (GPA)

Grade point average (GPA) calculations are based solely on courses taken at NMSU or under an approved National Student Exchange. The hours for any course for which no traditional letter grade is given will be included in the total number of earned hours, but is not computed in the grade-point average. Traditional letter grades are those which are used in the grade point average determination, traditional grades are A+ through F grades. In computing the overall grade-point-average, the total credits for the traditional letter grades that have been assigned is divided into the total number of grade points earned.

# PART 4: MINIMUM GRADE REQUIREMENTS

## A. Undergraduate Students

Undergraduate degrees require a cumulative GPA of 2.0 or higher for degree completion. Although D+, D, or D- can be considered passing, some departments have higher grade requirements for the courses within their program and/or their program as a whole. Students should check with their departments regarding specific course grading requirements for their particular degree program.

## B. Graduate Students

1. Graduate degrees require a cumulative graduate G.P.A. of 3.0 or higher for degree completion. Although B- and C grades (including C+ and C-) earned at NMSU may be counted toward the requirements for a graduate degree in some programs, this grade does not reflect acceptable graduate-level performance and may cause the cumulative G.P.A. to fall below the 3.0 required for graduate students. Some departments have higher grading requirements for courses in their programs.
2. Courses in which a student earns a D or F grade do not ever satisfy graduate degree requirements; however, these grades will be calculated in determining the students' cumulative grade-point average. To obtain academic credit, students must retake courses in which a grade of D or F was earned.

## PART 5: EARLY PERFORMANCE AND PROGRESS GRADING

### A. Six-Week Early Performance Reporting

1. All instructors of courses numbered 100-299 will submit grades for work completed as of the sixth Friday following the date classes begin, for the regular 16-week fall and spring semesters. This requirement does not apply to summer terms nor mini-semesters. Instructors must submit the six-week early performance grades by 5:00 p.m. on the Tuesday following the sixth Friday.
2. In courses numbered 300 or higher, the posting of Six-Week Early Performance Grades is optional.
3. Early Performance grades will only be used for student retention efforts, to facilitate opportunities for students to address performance issues.

### B. Academic Progress Reports Upon Student Request

Prior to the last day to withdraw from a course, upon request by the student, instructors will provide information to students about their progress in the course.

## PART 6: DEADLINE TO SUBMIT FINAL GRADES

The deadline for submission of final grades will be 5 p.m. on the second working day after the last day of classes at the end of the semester or as assigned by the official academic calendar, whichever is later. Final grades are recorded on the student's transcript.

# PART 7: POSTING GRADES: PROTECTION OF PERSONALLY IDENTIFYING INFORMATION

## A. Protection of Personally Identifying Information

Protected personally identifying information, such as names, social security numbers and/or Banner I.D. numbers, in whole or in part, shall not be used for the purpose of publicly posting student grades, unless specific written permission (signed and dated) has been obtained from the student prior to grades being posted.

## B. Posting of Grades

It is permissible to publicly post student grades without consent only if it is done in a manner that is not personally identifiable – *e.g.*, the faculty member assigns a unique identifier to each student for this purpose, and the identifier is kept confidential and known only to the student and the faculty member.

# PART 8: RETENTION OF GRADING RECORDS

Individual assignments and exams that are not returned to students should be retained by the instructor or department through the end of the subsequent regular semester. The records used to compute individual final grades should be retained for two years after the completion of a course. If a final grade is appealed, these records must be kept for at least two years after the completion of the appeal. Departments, colleges or the library may require that records be kept for longer periods.

# PART 9: EFFECT OF CHANGE IN GRADE ON ACADEMIC STANDING

## A. Effect of Change in Grade

The effect of a change of grade on a student's academic standing (scholastic warning, probation or suspension) depends on the date the transaction is officially recorded on the student's academic record. If the transaction is recorded before the student begins another semester, the grade change (such as replacing the I grade with an earned grade) is included in the grade-point average calculation in order to establish the student's academic standing. If the transaction is recorded after the student begins another semester, for the purpose of calculating academic standing, the new grade is included with any other grades earned for the semester in which the grade change is processed.

### B. Repeating Courses for Change in Grade

Single courses may be attempted for a total of three times. Students who do not pass a course within three attempts must obtain permission from their Academic Associate Dean to enroll in the course. Academic colleges and departments may enforce additional restrictions regarding the number of times a course can be repeated. For purposes of a change in grade, attempts will not include "W" (Withdrawal) grades. Courses that have variable credits and/or have a published maximum repeat allowable for student enrollment are excluded from this policy.

1. **Undergraduate**: Undergraduate students may repeat courses, for a change in grade, when the original grade earned was a D or F. Once a grade of C- or better is earned, the course will then be substituted in the calculation of the grade-point-average and students will no longer be able to repeat that course for change of grade purposes. Student transcripts will continue to show the grade awarded for each course attempt, but only the higher grade will be included in the GPA calculations.
   If the student's original grade was a D and the student repeats the course, but receives an F, the second grade will not be substituted for the original. Repeat options apply only to courses that were completed prior to the time a student was awarded a degree.
2. **Graduate**: Graduate students may repeat courses to achieve a higher grade, but the grade assigned for each attempt will remain on the transcript and will be counted in the grade point average calculation.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 4 | Curriculum and Course Management

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 05/08/2018

## Related

**Cross-Reference:**
**Revision History:**

05/08/18 Amendment approved by Chancellor
2017 Recompilation, formerly Rule 6.70
10/21/15 former Policy 4.55 replicated by Board of Regents as initial Rule 4.55
05/08/15 Amendment to Policy 6.70 approved by Board of Regents
10/22/07 Amendment to Policy 6.70 approved by Board of Regents

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 4.61 – Transfer Credit

arp.nmsu.edu/4-61

## A. Faculty Decision

The decision to award a student credit for work completed at another institution rests with the faculty.

## B. Registrar's Duties

The registrar will maintain a database of commonly transferred courses from other institutions and their NMSU equivalents.

## C. Four Year Review of Departmental Equivalents

Every 4 years faculty from each department will have the opportunity to review the equivalents from their department and make changes to the database.

## D. Transferred Courses Not in Registrar's Database

Transferred courses that are not in the database will be individually evaluated by the Office of the Registrar. If uncertain about which NMSU course is equivalent, the registrar will consult with the faculty in the relevant department.

## E. Transfer Credits from Non-Accredited Institutions

Transferred credits from non-accredited institutions will be evaluated by faculty from the relevant department after the student has shown acceptable performance at NMSU for two semesters.

## F. Responsibility of Student to Provide Documentation to

# Facilitate Determination of Transferability

It is the student's responsibility to provide departmental faculty with sufficient materials to determine which of the department's courses is equivalent to the credits being transferred. The determination whether a course if from an accredited institution will be based on where the course was actually taken. (For example, a course taken at a workplace for which college credit was later awarded by an accredited institution would be treated as credit from a non-accredited institution.)

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 4 | Curriculum and Course Management

**Rule Administrator:** Registrar

**Last Updated:** Not Available

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 6.89

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 4.62 – Articulation Agreements

arp.nmsu.edu/4-62

**A.** The decision to participate in an articulation agreement with another institution(s) rests with the faculty.

**B.** For those articulation agreements that are initiated by the New Mexico Higher Education Department, the administration will appoint a representative to the HED Statewide Articulation Task Force. The representative will consult closely with faculty in individual departments on discipline-specific course equivalencies prior to signing any articulation agreements. Department faculty must approve any changes which affect how credit is awarded in their discipline prior to implementation. Faculty approval is not required if the proposed changes are already reflected in the Course Transfer Matrix established by the Office of the Registrar. (*See* Transfer Credit in Undergraduate Catalog)

**C.** In cases where a change in the current HED Articulation Agreement will affect the university's general education requirements, the representative will consult closely with the General Education Committee prior to signing any articulation agreements. The General Education Committee must approve any changes affecting the structure of the university's general education curriculum prior to its implementation.

**D.** For those articulation agreements initiated by a university department or college, the initiating department or college will consult closely with the faculty in individual departments on discipline-specific course equivalencies prior to signing any articulation agreements. Department faculty must approve any changes in how credit is awarded in their discipline prior to implementation. Faculty approval is not required if the proposed changes are already reflected in the Course Transfer Matrix established by the Office of the Registrar. (*See* Transfer Credit in Undergraduate Catalog)

**E.** The Board of Regents endorses the concept of articulation between 2 and 4-year colleges and universities. At the university, the evaluation of transfer students' transcripts has been done by one central office for over 15 years. By centrally evaluating these transcripts, the majority of the problems with respect to articulation have been resolved. In addition, the university has prepared academic transfer guides for all two-year institutions in the state of New Mexico. To promote the continuous efficient, forward progress of students through the educational system of New Mexico, the board endorses practices and matrices which facilitate the intrastate transfer of credit and support the development and

implementation of a statewide articulation plan. To this end, students awarded the Associate of Arts or Associate of Science degree from an accredited New Mexico postsecondary institution will be accepted at the junior level* in baccalaureate degree-granting institutions.

**Students will be allowed to register as juniors. They may be required to take lower division coursework to fulfill specific baccalaureate degree requirements. This interpretation will be published in catalogs and student transfer guides.*

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 4 | Curriculum and Course Management

**Rule Administrator:** Executive VP and Provost

**Last Updated:** Not Available

## Related

**Cross-Reference:**
Transfer Credit in Undergraduate Catalog

**Revision History:**

2017 Recompilation, formerly Rule 6.15

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 4.65 – General Education Coursework Required for Graduation

arp.nmsu.edu/4-65

## A. General Education Policy Statement

The General Education curriculum required for graduation from New Mexico State University is comprised of the state's common core and the university's Viewing a Wider World courses. *See* the *NMSU Undergraduate Catalog* for specific category requirements, options and required credits that will fulfill both state and university requirements.

1. **Common Core**: The New Mexico Higher Education Department (HED) mandates a lower-division general education common core curriculum. These are accepted in total as a block by all accredited, public post-secondary institutions within the state of New Mexico. *See* NMSA 1978 §§ 21-1B-1 et seq.
2. **Viewing a Wider World**: In addition to the state's requirements, NMSU has adopted Viewing a Wider World courses (VWW) as part of its General Education curriculum required of all undergraduate students. *See* NMSA 1978 §21-1B-4 (B). These courses foster intelligent inquiry, abstract logical thinking, critical analysis and the integration/synthesis of knowledge beyond the student's major discipline.

## B. General Education Course Certification Committee

The Board of Regents recognizes and delegates review and certification for the general education courses to the advisory body known as the General Education Course Certification Committee, which reports to the university's chief academic officer, the Executive Vice President and Provost, as follows:

1. **Role and Purpose:** The General Education Course Certification Committee is recognized as a standing university board within the definition of **RPM 2.30**. It serves as an advisory body to the Office of the Executive Vice President and Provost. Its primary charge is to review the courses submitted for inclusion in the General Education curriculum in light of the applicable state or university criteria, and to provide its recommendations to the Office of the Executive Vice President and

Provost. The committee also develops or reviews proposed procedural guidelines for the General Education course certification process, for consideration by the Office of the Vice President and Provost.

2. **Composition:** The General Education Course Certification Committee shall be comprised of one faculty member and one alternate faculty member from each academic college and the library, to be selected by the appropriate dean; two community college faculty members and one alternate community college faculty member, to be selected by majority vote of the community college chief academic officers; and one member and one alternate member from the Faculty Senate. A representative from the Registrar's office and from the Outcomes Assessment office shall also serve on the committee in an *ex-officio*
3. **Reporting Structure:** The committee reports directly to the Executive Vice President and Provost, who will appoint a representative from the Office of the Executive Vice President and Provost to serve as chair. The Office of the Executive Vice President and Provost shall provide the committee with necessary administrative support.
4. **Meetings:** The committee shall meet a minimum of one time per semester. The chair or the Executive Vice President and Provost may call additional meetings as often as necessary for the committee to perform its charge.

## C. General Education Certification

1. The Office of the Executive Vice President and Provost, after consideration of the recommendation from the General Education Course Certification Committee, will establish and publish procedural guidelines pertaining to the review of courses proposed for inclusion in the General Education curriculum.
2. Any NMSU-Las Cruces college or department may propose to create or modify a course for inclusion in the General Education curriculum.
3. Courses that are part of the state common core are subject to the regulations of the New Mexico Higher Education Department. The Office of the Executive Vice President and Provost is responsible for compliance with these regulations.
4. Viewing a Wider World courses proposed by the various colleges and departments will be certified or re-certified in accordance with the General Education Course Certification Procedural Guidelines issued by the Office of the Executive Vice President and Provost.
5. Upon receipt of notice of certification, the sponsoring department will process the appropriate course action forms to initiate the process for the course to be officially offered, and published in the appropriate catalog(s).

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 4 | Curriculum and Course Management

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 06/21/2012

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 6.65

06/21/12 Amendment approved by Board of Regents

07/15/08 Amendments approved by Board of Regents

09/08/06 Amendment approved by Board of Regents

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 4.66 – Independent Studies

arp.nmsu.edu/4-66

Independent studies are for students capable of self-direction, who meets the requirement for the S/U option, *i.e.*, if the students are not eligible for the S/U option, they are not eligible for independent study. Class tickets will not be issued, nor will on-line scheduling unless the student presents a signed Independent Study Permit to the card issuer. Independent study courses are considered part of a faculty member's load. Departments will establish standards for each independent study course offered. The instructor should file a summary of requirements with the department head for each student enrolled in an independent study course before the last day to add or drop a course. Independent study research or reading courses may not be challenged.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 4 | Curriculum and Course Management

**Rule Administrator:** Executive VP and Provost

**Last Updated:** Not Available

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 6.80

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 4.67 – Military Science Coordinator

arp.nmsu.edu/4-67

## A. Promotion of ROTC Program

The university's Reserve Officer Training Corps (ROTC) program is established as a voluntary course of study. It is the policy of the university to advocate and promote the ROTC, and the ROTC officers on campus shall be given faculty status.

## B. Role of the Dean of the College of Arts and Sciences

The dean of the College of Arts and Sciences serves as the military science coordinator and represents the university administration at various military functions. The dean also approves the faculty members assigned to the Departments of Aerospace Studies and Military Science.

## C. Dismissal from ROTC Programs

When an ROTC department makes a decision to cancel the contract leading to a commission for a student in the advanced ROTC program, the following university procedure will apply:

1. If the contract is canceled during a semester when the student is currently enrolled in an advanced ROTC course, and the student is demonstrating satisfactory academic performance, the student may be dropped from the course only with the student's approval and with a grade of W.
2. The student wishing to complete a given advanced course for graduation or for credit, whose contract is canceled during the semester in which the student is enrolled in the course, will be permitted to complete the course, provided the student continues to demonstrate satisfactory academic performance. The course may be completed by continued attendance at classes, or by extra-class arrangements made for individual instruction at the discretion of the professor of military science or aerospace studies.

Extra-class arrangements must provide to the student the opportunity to achieve the same grade which could have been received by remaining in class.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 4 | Curriculum and Course Management

**Rule Administrator:** Executive VP and Provost

**Last Updated:** Not Available

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 6.84

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 4.68 – Course Curriculum Changes

arp.nmsu.edu/4-68

## PART 1: PURPOSE

This rule provides the rules and procedures to change course curricula (includes the addition, deletion of courses, modification of course descriptions, credit hours or prerequisites), including changes to the course prefixes.

## PART 2: APPROVAL OF CURRICULAR CHANGES

Prior to placement in, or deletion from, the Catalog or Schedule of Classes, all new courses, course changes (description, credit, prerequisite, etc.), and course deletions must be recommended by the University Curriculum Committee (UCC) and approved by the Office of the Executive Vice President and Provost. In the event of extenuating circumstances, as determined by the executive vice president and provost in consultation with the registrar, changes may be approved without prior action by the UCC.

If course changes and additions are related to new or modified degrees, majors, minors or other academic programs of study, these changes must be approved prior to submitting proposals required by **ARP 4.81 – Degrees, Majors, Minors and other Academic Programs of Study**.

## PART 3: UNIVERSITY CURRICULUM COMMITTEE

The University Curriculum Committee (UCC) consists of the academic associate dean from each college and the academic vice president from each community college. The Catalog editor and a representative from the Office of the Provost serve on the UCC as *ex officio* members. The UCC will select one of its voting members to serve as chair. The UCC has system wide authority to review proposals on behalf of the university system relating to course curricula and to make recommendations to the Office of the Executive Vice President and Provost.

# PART 4: DEADLINES FOR INCLUSION IN CATALOG

Each fall, the Registrar's Office convenes a meeting of the University Curriculum Committee (UCC) to review and make recommendations relating to the approval of proposal curricula changes. Deadlines for the Course Action Form cycle will be announced and enforced within the announcement page of the Course Action Form system and on the Registrar's Office website. The Registrar's Office, with approval from the executive vice president and provost, is empowered to effectuate curricular changes without prior action by the UCC, based on extenuating circumstances as determined by the executive vice president and provost in consultation with the registrar.

# PART 5: AUTHORITY OF REGISTRAR

A. **Guidelines and Forms**: The Registrar coordinates closely with the chair of the University Curriculum Committee and the Office of the Executive Vice President and Provost relating to implementation of this rule. In consultation with the University Curriculum Committee, the registrar is authorized to develop and publish guidelines and forms to facilitate course curricula changes, including course prefix changes, consistent with this rule and state law and regulations. Such guidelines, forms and deadlines will cross reference or link to this rule and be posted at http://registrar.nmsu.edu.
B. **Automatic Course Inactivation**: Courses that have not been offered for 5 years are subject to automatic inactivation by the Registrar's Office. Before initiating inactivation, the Registrar's Office prepares and circulates to the authorized departmental designee a list of such courses. Departments may utilize the registrar's fast track reactivation process, with appropriate justification to maintain the course.

# PART 6: CHANGES TO COURSE PREFIXES

A. Requests by the academic units for a new or revised course prefix must be submitted to the Registrar's Office, with a completed Course Prefix Review Form. The Registrar's Office will screen the requests and work with the requesting unit regarding applicable criteria consistent with state regulations, and availability for use.
B. The Office of the Registrar will submit the requests to the University Curriculum Committee for review and recommended disposition.
C. The University Curriculum Committee reviews and provides a recommendation to the Office of the Executive Vice President, which will review and render the decision.

D. After action by the Office of the Executive Vice President and Provost, the Form is returned to the Registrar's Office for implementation.

# PART 7: CHANGES TO COURSE CURRICULA

A. Requests by the academic units for course curricula changes, including proposals to add or delete courses, or to change the course description, credits or prerequisites, must be submitted using the Course Action Forms (CAF) system, as described below.
B. Each academic department will authorize a designee for purposes of access to the Course Action Form (CAF) system. The registrar will provide each designee a code to access the system. The authorized departmental designees submit the CAF Routing Request Form in advance of the deadline (published at http://registrar.nmsu.edu), to initiate their proposal(s) for a course curricula changes.
C. The department's designee ensures that the appropriate college approvals have been obtained prior to submission of the Course Action Forms. Colleges may have an internal approval process that is required to be completed prior to the Associate Dean/VP approval of the Course Action Forms. Such process is determined by the college.
D. The Catalog Editor provides the first level of review, for accuracy within the student information system and for compliance with policy and state regulations.
E. After review and adjustment in coordination with the submitting department, if any, the Registrar convenes the University Curriculum Committee (UCC) to review all proposed curricular changes, to ensure they are consistent with the academic mission of the degree, and to reduce unnecessary duplication of courses.
    1. Objections to any change described on the Course Action Form (CAF) should be raised at the UCC meeting, for discussion and resolution.
    2. The UCC may recommend an offering of a new course, or a change to an existing course on a one-time-only basis, if the courses are to be used in programs with special outside funding, or under the following circumstances:
        a. The course responds to special circumstances that are causing a negative impact on a large number of students.
        b. The course responds to specific needs in a grant recently received.
        c. Changes in accreditation requirements dictate immediate changes in the curriculum.
F. For proposals relating to curricular changes to the General Education and Viewing a Wider World requirements, such proposals must also be reviewed by the General Education Course Certification Committee. (See **ARP 4.65**)
G. The Office of the Executive Vice President and Provost reviews the recommendations of both the UCC and the General Education Certification Committee and takes final action, as well as coordinates with the registrar regarding implementation of the

curricular changes. If the provost's action differs from the UCC's recommendation, the chair of the UCC will be notified.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 4 | Curriculum and Course Management

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 05/08/2018

## Related

**Cross-Reference:**
**ARP 4.81 - Degrees, Majors, Minors and Other Academic Programs of Study**

**ARP 4.65 - General Education Coursework Required for Graduation**

**Revision History:**

05/08/18 Amendment approved by Chancellor
2017 Recompilation, formerly Rules 6.35 & 6.26 Part 5
05/10/17 Amendment approved by Chancellor
12/09/16 Repeal of Policy 6.26 from Regents Policy Manual approved by Board of Regents
10/21/15 former Policy 6.26 replicated by Board of Regents as initial Rule 6.26

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 4.69 – Academic Rules for Distance Education

arp.nmsu.edu/4-69

## PART 1: DISTANCE EDUCATION AT NMSU

Distance Education at New Mexico State University refers to the formal process of delivering instruction via electronic or other media regardless of the location of the student or the instructor. This can be synchronous or asynchronous and can include face-to-face interaction. This definition doesn't apply to dual credit courses.

A. **Distance Education Course Criteria:** Courses that meet any one of the following criteria are considered distance education courses.
    1. Online courses with greater than or equal to 50% web-based technologies;
    2. Offsite courses that are face-to-face, with or without web-based technologies, offered at a location other than the campus of program origin*, except a field methods course for a non-DE program;
    3. Courses that use interactive television (ITV) to deliver instruction.
    ** Dual Credit courses will not be assessed the Course Delivery Fee.*
B. **Distance Education Program Criteria**: A degree, certification, or other credential where more than 50% of the program is delivered via off-site, web-based technologies, or other media will be considered a Distance Education Program.

## PART 2: ROLES AND RESPONSIBILITIES, INCLUDING CAMPUS DISTANCE EDUCATION COMMITTEE(S)

A. **Campus Distance Education Committee(s)**: Each campus within the NMSU system will have a distance education committee whose membership is determined by the campus academic officer in consultation with campus faculty. Each campus distance education committee will review and coordinate its campus' distance education activities with their respective campus chief academic officer, and with the distance education director.

B. **Distance Education Director**: The distance education director provides oversight, coordination, and support for all aspects of the institution's distance education program and course offerings. This includes but is not limited to professional development, student support, maintaining quality initiatives, and advocating for program development as well as growth.

C. **Executive Vice President and Provost**: On behalf of the NMSU system, the Executive Vice President and Provost will coordinate the work of the campus distance education committees, with the committees' respective chief academic officers and with the distance education director.

D. **Faculty Expectations**: In order to maintain the educational quality of all distance education offerings, faculty are expected to have experience teaching online. When appropriate, departments are encouraged to include online teaching experience in the evaluation of applicants for faculty positions. The department head or dean will determine if faculty have or have not demonstrated appropriate experience. Faculty who have not demonstrated appropriate experience are expected to complete the following professional development activities prior to teaching an online course:

    1. Learning Management System training
    2. Short course for online teaching
    3. Applying the Quality Matters Rubric workshop
    4. Videoconference/ITV training when appropriate.

    Faculty are expected to use the institutional learning management system to deliver online course materials. However it is recognized that other web-based tools are sometimes more appropriate for certain types of interaction. The LMS should be the primary tool for interaction, but not necessarily for interactions of every type. (See Parts 2 and 5 of **ARP 15.81**).

E. **Administration:** Administration will provide opportunities for faculty to continue to develop distance education teaching skills. Faculty teaching online are expected to keep current with new developments in distance teaching and learning. To support this expectation, if distance education courses are offered by a department, then Department, College, and Institution Promotion and Tenure documents must include appropriate credit for distance education course development as well as teaching online.

## PART 3: FUNDAMENTAL PRINCIPLES AND RULES APPLICABLE TO DISTANCE EDUCATION PROGRAMS AND COURSES

A. **Quality and Learning Goals; Prioritization of Distance Education Programs**: A fundamental principle for all NMSU courses and programs is that quality and learning goals are consistent regardless of delivery modality. The value of distance education offerings is ultimately achieved through coordinated program offerings that lead to a specified credential. Resources will be prioritized toward offering full distance education programs over individual courses.
B. **Transition from Face-to-Face Delivery to Distance Education Delivery** : Programs moving from face-to-face delivery to distance delivery must follow procedures for new programs as outlined in **ARP 4.81**–Degrees, Majors, Minors and Other Academic Programs of Study. This rule applies to degrees, majors, minors or certificates that change modality from face-to-face settings or move more than 50% of the program to a distance delivery.
C. **Review and Approval of Newly Proposed Distance Education Programs**: New distance education program proposals must be reviewed and approved by the Associate Deans Academic Council. New distance education program proposals must include an analysis of the technical and financial viability of the proposed program that outlines anticipated revenues as well as expenses of the program. Proposals will be reviewed by the Director of Distance Education to evaluate the level of support required by the proposed program.
D. **Assessment of Distance Ed Learning Outcomes**: Assessment of distance education programs shall be incorporated into other assessment activities of the academic unit. When a distance education program is also offered face-to-face, assessment of learning outcomes shall be integrated.

E. **Requirements to Offer Online Courses**: All NMSU online courses must meet a quality metric, defined by the chief academic officer at each NMSU campus, before being offered. This metric will address standards for course design, branding, and templates. Online courses will be reviewed on a five-year cycle by the college. (*See* **ARP 4.68 – Curricula Changes**).

F. **Approval of Distance Education Courses**: NMSU's four-year campus distance education courses must be approved through the appropriate college and the Director of Distance Education. NMSU's two-year campuses will develop their own course approval process. The work of each campus distance education committee will be coordinated and aligned system wide through the Office of the Executive Vice President and Provost.

G. **Compliance with NMSU Policies and Procedures**: Faculty and staff developing and teaching online courses will be subject to applicable university, college or departmental policies and procedures, including but not limited to the Administrative Rules and Procedures of NMSU (ARP). For example, **ARP 11.05**, Intellectual Property Management and **ARP 3.02**, Principles, Definitions and Examples relating to Conflicts of Interest/Commitment.

H. **Course Delivery Fee (CDF)**: Each campus shall impose a course delivery fee for distance education courses as defined above*. These fees shall be shared among campus administration, colleges, and units in a manner that supports the mission of the university and distance education.
** Dual Credit courses will not be assessed the Course Delivery Fee.*

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 4 | Curriculum and Course Management

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 05/09/2017

## Related

**Cross-Reference:**
**ARP 3.02 - Principles, Definitions and Examples relating to Conflict of Interest/Commitment**

**ARP 4.68 - Curricula Changes**

**ARP 4.81 - Degrees, Majors, Minors and Other Academic Programs of Study**

**ARP 11.05 - Intellectual Property Management and Commercialization**

**ARP 15.81 - Use of NMSU and NMSU-Hosted Personal Websites**

**Revision History:**
2017 Recompilation, formerly Rule 6.55
05/09/2017 Amendment approved by Chancellor
10/21/2015 former Policy 6.55 replicated by Board of Regents as initial Rule 6.55
Prior revision history as Policy 6.55 not available

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 4.70 – Embargo of Dissertations or Master's Theses

arp.nmsu.edu/4-70

New Mexico State University permits the embargo of dissertations or master's theses under certain conditions as described in this rule.

## A. Definition

An embargo of a thesis is defined as a delay in the release of the dissertation or master's thesis for a specified amount of time (non-renewable).

## B. Routine Processing by Library

Unless a request for embargo is approved, dissertations or master's theses will be routinely processed by the Library. NMSU Library: Embargo NMSU permits the embargo of dissertations or master's theses under the following conditions:

1. To protect information of commercial value
2. To protect a patent application
3. To protect intellectual property rights associated with publication of content
4. To honor a pre-existing contractual agreement; or
5. To protect individual rights to privacy because of the thesis subject or when cultural respect is being infringed.

## C. Procedure To Request Embargo

To apply, the requestor must submit a Master's Thesis and Dissertation Embargo Request Form to the Graduate School office with the Thesis-Dissertation Intake Form.

1. The completed Master's Thesis and Dissertation Embargo Request Form must be signed by:
    a. Student
    b. Dissertation Advisor(s)
    c. Department Head

d. Dean of College or Designee
e. Dean of Graduate School

2. **Conditions**: The following conditions will apply if an embargo is granted:
   a. The bibliographic information (author, title, abstract, metadata, etc.) of the copy held by the NMSU Library will be publicly accessible in the library catalog.
   b. The embargoed dissertation or master's thesis will automatically be made available upon the embargo expiration date.
   c. An approved embargo period shall be twenty-four months and non-renewable

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 4 | Curriculum and Course Management

**Rule Administrator:** Library Dean

**Last Updated:** 07/29/2009

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 6.93

07/29/09 Policy adoption ratified by Board of Regents

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 4.71 – Experiential Learning Component for NMSU Academic Programs

arp.nmsu.edu

## PART 1: PURPOSE

This rule supports efforts to promote and expand Experiential Learning in the curriculum across NMSU's undergraduate degree programs. Through this rule, Departments are encouraged to include purposeful Experiential Learning activities and opportunities in their baccalaureate degree programs.

## PART 2: DEFINITION AND EXAMPLES OF EXPERIENTIAL LEARNING

Experiential Learning is defined as learning that occurs as a result of personal experience, during which students apply knowledge and conceptual understanding to a real or simulated situation associated with an academic program and guided by a faculty member (UT-Austin Faculty Innovation Center – https://facultyinnovate.utexas.edu). Examples of Experiential Learning activities include, but are not limited to, the following:

A. Traditional internships, residencies and co-ops that can be tracked by the completion of a course or through a non-credit bearing co-op tracked through the NMSU Office of Career Services. Activities performed at for-profit partner organizations should be paid;
B. Creative artistic efforts, including studio art, performance art, theatrical performances and productions, and exhibits;Students working in on or off campus labs or in teams under the mentorship of a faculty member or research staff person with similar credentials. Determination of what constitutes laboratory formats and activities that qualify as Experiential Learning should be made by faculty in the relevant department;
C. Problem solving exercises in class that fit the definition above:
D. Formal externally or internally sponsored programs that provide specific opportunities for students to engage in faculty mentored research activities. Specific examples of this include the following (this list is not all inclusive):
    1. CURE – Course-based Undergraduate Research Experiences (National Science Foundation program for Research Coordination Networks in Undergraduate Biology Education – https://curenet.cns.utexas.edu/),
    2. Maximizing Access to Research Careers (MARC), a special research training support activity of the National Institute of General Medical Sciences (http://marc.nmsu.edu/), and
    3. NMSU's Undergraduate Research Apprenticeship Program (URAP
    a. https://urap.nmsu.edu).
E. Field research and other field experiences conducted under the mentor ship of a faculty member or research staff person with similar credentials;
F. Capstone projects conducted under the mentor ship of a faculty member or research staff person with similar credentials;
G. Service learning work being done for nonprofit organizations under the supervision of a faculty member;
H. Documented service as a member of the active duty military;
I. Clinical experiences and practicums;
J. Student teaching activities; and
K. Senior and honors theses.

## PART 3: GENERAL PRINCIPLES

The following principles apply in the integration of Experiential Learning in undergraduate baccalaureate programs:

1. All Experiential Learning opportunities should be supervised by NMSU Faculty or similarly qualified faculty or staff at off-site research locations.
2. Experiential Learning is an applied knowledge endeavor, and the results of Experiential Learning activities should include reflections by the student that discuss activities, outcomes, and knowledge gained.
3. Faculty are best suited to define and structure the appropriate activities for their disciplines. The definition of these activities should be handled at the degree program/departmental level. A central IT database should be maintained, where programs and departments should document and track these activities.
4. Departments should also determine how Experiential Learning activities are included in distance education classes and programs.
5. Catalog language should be developed at the degree program level to ensure that appropriate Experiential Learning activities and requirements are documented in requirements for the degree.

## PART 4: IMPLEMENTATION

To gain the widest participation reasonable by baccalaureate degree granting departments, all such departments should respond to this rule by communication to their relevant College Dean and to the Executive Vice President and Provost concerning the status of the department's efforts to incorporate Experiential Learning in each undergraduate degree program, specifically addressing the following:

A. Documenting current Experiential Learning activities that are consistent with the definition noted above,
B. Describing the development of new activities/classes that provide Experiential Learning experiences consistent with the definition noted above, and/or
C. Providing an explanation of a finding that Experiential Learning activities have been determined to be inappropriate, ineffective, or unnecessary, and will not be included in a particular undergraduate degree program's requirements, or the relevant sections of the university catalog.

## Details

**Scope: NMSU - Las Cruses**

**Source:** ARP Chapter 4 | Curriculum and Course Management

**Rule Administrator:** Executive Vice President and Provost

**Last Updated:** 10/10/2017

## Related

**Cross-Reference:**

**Revision History:** 10/10/2017 Rule adopted by Chancellor

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 4.81 – Degrees, Majors, Minors and Other Academic Programs of Study

arp.nmsu.edu/4-81

## PART 1: INTRODUCTION

The following Administrative Rules and Procedures are adopted pursuant to the authority granted in **RPM 4.00**. They establish the protocols by which degrees, majors, minors, and other academic programs of study shall be developed, reviewed and officially adopted.

## PART 2: TYPES OF ACADEMIC ACHIEVEMENTS/MINIMUM CREDITS HOUR REQUIREMENTS

### A. Degrees

An academic rank conferred by the university after successful completion of a required course of study or conferred as an honor on a distinguished individual. NMSU offers Associate, Baccalaureate, Master's and Doctoral degrees. A degree is indicated on the student's transcript.

1. **Associate Degree:** NMSU awards both designated and undesignated associate degrees following completion of a minimum of 60 credits. Associate degrees are designed to prepare a student to transfer to a baccalaureate program and generally cover the first two years of a four-year degree.
2. **Applied Associates Degree:** Applied associate degrees are offered by the system's community colleges and designed for students moving directly to the workforce. These professional programs have a minimum of 60 credits.
3. **Baccalaureate Degree:** A baccalaureate or bachelor's degree is designed to provide the student with a broad educational base as well as knowledge in a specific field. The baccalaureate degree requires coursework to satisfy the New Mexico Common Core requirements (35-

36 credits), New Mexico State University's Viewing a Wider World requirements (6 credits), and the requirements of the major field of study (see section B).

4. **Master' s Degree:** A minimum of 30 semester graduate course credits is required for the master's degree. Master's programs involving a thesis include no more than six and no fewer than four credits of thesis. At least 15 credits for the master's degree must be for work in courses in the department in which the student was admitted.
5. **Doctoral Degree:** The doctoral degree requires significant scholarly study beyond the master's. The individualized program of study is designed to meet the campus residency requirement and includes a minimum of 30 graduate course credits beyond the master's. If the Doctoral degree requires a dissertation, at least 18-credits of dissertation work must be included. The professional doctoral degree includes a practicum or special project that culminates in a written report which demonstrates a command of the relevant scholarly literature and links it to the specific clinical or practical experience.

## B. Majors

A major is a recognized area of study in which there is an extensive and well-developed curriculum offered at the university, as well as adequate library resources and support services.  All majors are indicated on the student's transcript.

1. **Associate Major:** An associate major, may include courses from more than one department, but as a minimum it must consist of at least 60 credits. Transfer degrees must include the New Mexico Common Core. Additional requirements may be imposed by the State of New Mexico and New Mexico State University or as specified in the Community College's Catalog.
2. **Undergraduate Major:** An undergraduate major may include courses from more than one department, but as a minimum it must consist of at least 24 credits within the major field, of which 18 credits must be upper-division courses. Additional requirements may be imposed by the State of New Mexico and New Mexico State University as specified in the Undergraduate Catalog.
3. **Graduate Major:** A graduate major may include courses from more than one department, but as a minimum it must consist of at least 30 graduate course credits. Additional requirements may be imposed by the State of New Mexico and New Mexico State University as specified in the Graduate Catalog.
4. **Multiple Major:** A student may earn multiple majors. In this case, the student must meet all of the requirements in the same catalog for each

major. Courses taken outside of the major fields may be used to fulfill the conditions of any of the majors.

5. **Supplemental Major:** A supplemental major is designed to enhance a student's primary major through interdisciplinary coursework in a closely related field. The minimum requirements for an undergraduate supplemental major are 24 credits taken from the catalog listing for the field of study, of which at least 18 credits must be upper-division (300-499). Of the 24 credits, up to 9 may be courses from the student's major course of study.

## C. Minors

A minor is based on courses that encompass a recognized field of study outside the student's major. Departments may require certain courses be a part of a minor and may exclude other courses. Offered minors are listed in the Undergraduate and Graduate Catalogs. A minor is indicated on the student's transcript.

1. **Undergraduate Minor:** At a minimum, an undergraduate minor must consist of 18 credits of course work, of which 9 credits are at the upper-division level.
2. **Graduate Minor:** At a minimum, a graduate minor must consist of at least 9 course graduate credit hours.

## D. Concentration

A collection of coursework in an area that is part of a major (see above) program of study. A minimum of 12 credits within the concentration are required, although some majors may require more. At the baccalaureate level, at least 9 of these 12 credits must be numbered 300 or above; at the graduate level at least 9 of these 12 credits must be numbered 500 or above.  A concentration will be indicated on the student's transcript.

## E. Certificates

1. **Community College Certificates:** A Community College may offer two types of certificates: Certificate of Achievement and/or the Certificate of Completion.
    a. The Certificate of Achievement is a program of study less than 16 credits and is not eligible for Federal financial aid. It must provide employment related and/or career enhancing skills necessary to succeed in a job or a chosen field of study. These courses can be a subset of those required for a corresponding Certificate of Completion or Applied Associates Degree. These certificates are recorded on the student's transcript.

b. The Certificate of Completion requires a minimum of 16 credit hours (other Title IV requirements must be met to be eligible for financial aid) and has been approved through the academic review process described below. These courses can be a subset of those required for a corresponding Applied Associates Degree. These certificates are recorded on the student's transcript.

2. **Graduate Certificate:** Graduate certificate programs require 12-18 credit hours of course work that is interrelated and designed to develop a focused skill or area of expertise but do not culminate in awarding of a degree. Courses that comprise the graduate certificate must be regular approved courses offered by the University and must be numbered 450 or above. A graduate certificate is indicated on the student's transcript.

## PART 3: APPROVAL PROCESS FOR NEW AND REVISED CURRICULAR CREDENTIALS

The charts attached at ARP **Appendices 4.81-A** and **4.81-B** outline the sequence of approvals required for each type of academic credential. New credentials must include a proposal form. Changes to existing credentials must include a curriculum change form. The latest version of each form is available from the Office of the Executive Vice President and Provost. (See **https://provost.nmsu.edu**)

All changes to current credentials must use these procedures. **Examples include**: name changes, offering more than 50% of a program in a new location, changing the Classification of Instruction Program (CIP) code, or moving a degree to an online only format.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 4 | Curriculum and Course Management

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 11/13/2018

## Related

**Cross-Reference:**
**RPM 4.00 - Academic Matters**

**Appendix – ARP 4.81-A – Las Cruces Campus Approval Sequence for Curricular Credentials**

**Appendix – ARP 4.81-B – Community College Approval Sequence For Curricular Credentials**

***See also:***

**ARP 4.68 – Course Curriculum Changes**

**ARP 4.82 - Transcript Notations**(formerly ARP 4.81 Part 2)

**Revision History:**

11/13/2018 Amendment approved by Chancellor
02/04/2016 Amendment [FSP 07-15/16] approved by Chancellor
2017 Recompilation, formerly 6.82
10/21/2015 former Policy 6.82 replicated by Board of Regents as initial Rule 6.82
Prior revision history not available

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 4.82 – Transcript Notations

arp.nmsu.edu/4-82

## PART 1: PURPOSE

The purpose of the student's official academic transcript is to certify degree completion for employment or for continued educational purposes. This rule establishes the parameters for notations which may be included on the student's official transcript.

## PART 2: PERMITTED NOTATIONS FOR ACADEMIC ACHIEVEMENT

Only the following items should be noted on the official transcript for both undergraduate and graduate students (as applies to their individual degrees):

A. Degree/Certificate
B. GPA
C. Major
D. Concentration, if specified and timely *(See Catalog)*
E. Minor
F. Supplementary Major
G. Honors
H. Thesis Title
I. Dissertation Title

## PART 3: NON-TRANSCRIPTED ACADEMIC ACHIEVEMENTS

Other academic achievements or credentials will not be included on a student's transcript and catalog descriptions should make that clear to students. Examples include but are not limited to: Emphasis, Focus, Option, Track, Area, Field, Specialty, Pathway, and Specialization.

## PART 4: AWARDS AND OTHER RECOGNITION

Awards, recognitions or special projects should be recognized by the sponsoring unit, program, department or college by way of letter or certificate, separate and apart from the official transcript.

## PART 5: NOTATION FOR ACADEMIC INTEGRITY SANCTION

A notation relating to a Level II sanction for an academic integrity violation may be placed on the official transcript, in accordance with the Student Academic Code of Conduct (*ARP 5.10 and 5.11)*.

## PART 6: NOTATION FOR SOCIAL MISCONDUCT SANCTION

A notation relating to a disciplinary suspension, dismissal or expulsion for behavioral misconduct may be placed on the official transcript, in accordance with the Student Social Code of Conduct (*Student Handbook*).

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 4 | Curriculum and Course Management

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 11/13/2018

## Related

**Cross-Reference:**
**ARP 4.81 – Degrees, Majors, Minors and other Academic Programs of Study**

**RPM 4.00 - Academic Matters**

**Revision History:**

11/13/2018 Amendment approved by Chancellor; formerly Part 2 of ARP 4.81 – Degrees, Majors, Minors and other Academic Programs of Study

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 4.83 – Commencement

arp.nmsu.edu/4-83

## PART 1: CEREMONY

Two ceremonies may be held at the end of each semester, one ceremony on Saturday morning for three colleges and one Saturday afternoon for the other three colleges. Graduate students will participate with their respective colleges, but all graduate students in each ceremony will sit and be identified together. One honorary degree may be awarded at each ceremony.

## PART 2: SYMBOLIC COMMENCEMENT

Candidates for degrees sign applications which clearly state that the awarding of degrees is subject to completion of all requirements and cannot be interpreted as a commitment. Commencement ceremonies for the associate degrees awarded by the community colleges will be arranged by the respective community college.

## PART 3: ACADEMIC REGALIA

Each college may approve distinctive symbols to be worn by the top 10 percent of its graduates at commencement. Only one such symbol may be worn by each graduate. In addition, the student with highest honors in each college may wear a crimson-colored gown. No other symbolic additions to academic regalia are allowed without the approval of the Academic Deans Council.

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 4 | Curriculum and Course Management

**Rule Administrator:** VP Student Success and Enrollment Management

**Last Updated:** Not Available

## Related

**Cross-Reference:**

**Revision History:**
2017 ARP Recompilation, formerly 6.30

© 2017 New Mexico State University - Board of Regents

# Chapter 5 | Student Life and Conduct

## Subsections in Chapter 5


- 5.05 – Student Grievance Procedures
- 5.10 – Student Academic Code of Conduct – Academic Integrity
- 5.11 – Student Academic Code of Conduct – Procedures to Respond to Allegations of Student Academic Misconduct
- 5.13 – Undergraduate Student Academic Grievances
- 5.14 – Graduate Student Academic Grievances
- 5.15 – Degree Revocation and Expulsion from University
- 5.20 – SSCC – Overview of Student Social Code of Conduct (SSCC)
- 5.21 – SSCC – Student Rights and Responsibilities
- 5.22 – SSCC Conduct Standards
- 5.23 – SSCC Interim Measures
- 5.24 – SSCC Amnesty for Emergency Reporting
- 5.25 – SSCC Consequences for Violation
- 5.26 – SSCC Conduct Case Procedures
- 5.40 – Access to Student Educational Records – FERPA Compliance
- 5.50 – Award of Posthumous Honorary Degree

New Mexico State University

# 5.05 – Student Grievance Procedures

arp.nmsu.edu/5-05

## PART 1: SCOPE AND PURPOSE

This rule applies throughout the NMSU System. Any undergraduate or graduate student who believes that they have been treated unjustly by an NMSU process or person may seek redress through the appropriate university process. If there is a specific policy or rule applicable to the subject matter of the student's concern, grievance or complaint (hereinafter "grievance"), that policy or rule and its procedures will govern. This rule provides general principles governing student grievances (Part 2); identifies the areas where a specific grievance process is available to the student (Part 3); and sets forth a general student non-academic grievance procedure to govern when no specific grievance resolution process applies (Part 4). If unsure about which process applies to a particular situation, students may obtain guidance from the dean of students or designee in the office of Student Life.

## PART 2: GENERAL PRINCIPLES APPLICABLE TO ALL STUDENT GRIEVANCES

Unless in direct conflict with a specific provision in the other rules cited in Part 3, which provide distinct procedures for resolving certain types of student grievances, the following general principles apply:

A. **Day**: When used in this rule, a day means a university business day, Monday through Friday (8:00 am to 5:00 pm), excluding official NMSU holidays and closures.
B. **Official Correspondence**: Communications relating to grievances may be delivered in person, via email using the official NMSU email account, or by U.S. mail to the address maintained in official NMSU records.
C. **Impartiality of Fact Finders and Decision Makers**: Grievances will be investigated and resolved professionally by an objective individual not directly involved in the matter. When a conflict of interest or other type of

bias is alleged, senior administration will assist to recommend or take action to ensure the appointment of an impartial decision maker.

D. **Legal Representation**: The purpose of this rule is to allow the parties to resolve grievances at the lowest administrative level in a fair and expeditious manner, without the need for legal counsel. Grievance proceedings at NMSU are not legal proceedings and formal rules of evidence are not applicable. If any party, including the university, elects to utilize legal counsel, the attorneys may attend any meeting or proceeding to advise their client, but must not actively participate in the hearing or speak for the client.
E. **Non-Retaliation**: Students will not be treated adversely for having filed a grievance or participated in the grievance resolution process. Claims of retaliation will be taken seriously and investigated promptly outside of the grievance process. If retaliation is substantiated, appropriate disciplinary action will be taken.
F. **Prompt Resolution**: The time required to resolve a grievance will vary depending upon the nature of the claim and the extent of investigation required. The grievance resolution procedures identified in Part 3 include time deadlines which apply for that process. Grievances filed pursuant to the general student non-academic grievance process set forth in Part 4 below should be finally resolved within sixty (60) Days of the first formal filing, including the appeal process, without extenuating circumstances and notice thereof.
G. **Retention of Student Grievance Records**: Documentation relating to student grievances will be maintained by the dean of students or designee within the office of Student Life, or by the official(s) responsible for administration of the grievance procedures identified in Part 3, with notification to the dean of students, for a minimum of the records retention period required by New Mexico law and regulations (NMAC 1.21.2.1 et seq), and no sooner than three years from the filing of the grievance, as required by NMAC 5.99.1.19 B. The documentation maintained must include a copy of the grievance and any records reflecting the processing of the grievance.

## PART 3: PROCEDURES FOR SPECIFIC TYPES OF STUDENT GRIEVANCES

Students, faculty and staff are directed to the following rules which provide distinct procedures for the resolution of certain types of grievances.

A. **Academic Appeals**: If a student's grievance involves dissatisfaction with a

grade assigned by an instructor or other concern in the academic environment, the governing rules are ARP 5.13 (for undergraduate courses) or ARP 5.14 (for graduate courses). ***See ARP 5.13 – Review of Undergraduate Student Academic Grievances (Grade Appeals); ARP 5.14 – Review of Graduate Student Academic Grievances (Grade Appeals)***

B. **Reporting Cheating or Other Breach of Academic Integrity**: If a student wishes to report suspected cheating or other breach of academic integrity, the governing rules are ARP 5.10 and 5.11. ***See ARP 5.10 – Student Academic Code of Conduct – Academic Integrity and ARP 5.11 – Procedures to Respond to Allegations of Student Academic Misconduct***
C. **All forms of Discriminatory Misconduct**: If a student's grievance involves any type of illegal discrimination, ARP 3.25 governs ***RPM 3.25, Equal Opportunity and Prohibition of Unlawful Discrimination; ARP 3.25 – Discrimination, Harassment and Sexual Misconduct on Campus*.** Complaints by students or by third parties alleging or reporting unlawful discrimination must be reported to the Office of Institutional Equity at:**O'Loughlin House**
MSC 3515, P.O. Box 30001
Las Cruces, NM 88003
**Title IX and Section 504 Coordinator:** Laura Castille, OIE Executive Director
**Phone:** 575-646-3635; **Email:** equity@nmsu.edu; website: http://equity.nmsu.edu
D. **Failure to Provide Reasonable Accommodations**: If a student's grievance relates to a request for reasonable accommodations based on disability, ARP 3.40 and the operational procedures of Student Accessibility Services govern. ***See ARP 3.40 – Process for Disability Accommodation; ARP 3.25 – Discrimination, Harassment and Sexual Misconduct on Campus.***
E. **Service Animal or ESA Issues**: If a student's grievance relates to use of a Service Animal or an Emotional Support Animal, ARP 3.45 and 3.25 are the governing rules ***ARP 3.45 – Assistive, Service, and Companion Animals on University Premises; ARP 25 – Discrimination, Harassment and Sexual Misconduct on Campus.***
F. **Bullying, Hazing or Non-Discriminatory Hostile Misconduct**: If a student's grievance involves bullying, hazing or other non-discriminatory hostile misconduct, ARP 3.80 applies ***ARP 3.80 – Prohibition of Bullying, Hazing and Hostile Misconduct (Non-Discriminatory).***
G. **Student Conduct Complaints**: If a student has a complaint about other general misconduct or social behavior by another student or student organization, ARP 5.20 governs. ***See ARP 5.20 – Student Social Code of Conduct***

H. **Intellectual Property Complaints**: If a student's grievance involves a dispute over ownership of intellectual property, ARP 11.05 applies ***ARP 11.05 – Intellectual Property Management and Commercialization.***

I. **Employee Grievances**: If a student also serves in an employee capacity, the university's HR rules will govern. See https://www.arp.nmsu.edu

J. **Grievances by NMSU Students Residing outside of New Mexico**: In addition to the other grievance procedures set forth in this rule, NMSU Students enrolled in courses on-line who reside in a state participating in the State Authorization Reciprocity Agreement (SARA) may obtain an additional review of their grievance from the New Mexico SARA Portal Entity. SARA is an agreement among member states, districts and territories that sets national standards for interstate offering of postsecondary distance education courses and programs and allows students to benefit from educational services across state lines. (http://www.hed.state.nm.us/students/nc-sara.aspx). Appeals to the SARA Portal are subject to the following:

1. Grievances alleging false or misleading information relating to the accuracy of institutional or program accreditation status, tuition and fee expenses, course transfer information, requirements to meet professional licensure requirements or other institutional representation that are not resolved by NMSU may be appealed to the New Mexico SARA Portal Entity.
2. With the exception of grade appeals and student conduct matters, all other grievances not resolved by NMSU, including alleged violation of SARA policies, may also be appealed to the New Mexico SARA Portal Entity within two years from the date of the incident giving rise to the grievance.
3. In the event of an appeal by a student residing in a state participating in SARA, the NM SARA Portal Entity will notify that state's SARA Portal Entity about the appeal, coordinate with that Entity if it desires to assist with the resolution, and inform that Entity of the final disposition.
4. Questions concerning NMSU Distance Education or SARA policies and procedures may be emailed directly to **online@nmsu.edu** or mailed to:Distance Education
   New Mexico State University
   Milton Hall, Rm 185
   2915 McFie Circle
   MSC IIQ; P.O. Box 30001,
   Las Cruces, NM 88003
   575-646-8231

888-729-6678
575- 646-1650 (DE Director)

5. Information about SARA may be found at: http://www.hed.state.nm.us/students/nc-sara.aspx and grievances may be directed to the New Mexico State Portal Entity Contact at:Alicia Armijo, SARA Coordinator
New Mexico Higher Education Department
2044 Galisteo Street, Suite 4
Santa Fe, NM 87505-2100
(505) 476-8411
alicia.armijo@state.nm.us

## PART 4: GENERAL STUDENT NON-ACADEMIC GRIEVANCE PROCEDURE

If there is no specific rule or procedure to address the subject matter of a student's concern or grievance, the general student non-academic grievance procedures, set forth below, govern.

A. **Time Deadline to Initiate Grievance**: Absent extenuating circumstances, a student must initiate action pursuant to this procedure within sixty (60) Days following the date that the alleged incident or issue occurred or became known to the student, whichever is later. A failure by the university to respond to the student within the applicable time limits set forth below will entitle, but not require, the student to proceed to the next step in the process.
B. **Grievance Steps:**
    1. **Step 1 (Informal Grievance Resolution)**: The aggrieved student may (but is not required) to attempt an informal resolution directly through written correspondence or in person discussion with the involved staff member. If the matter is not resolved informally, the student may proceed to Step 2.
    2. **Step 2 (Resolution of Written Grievance):** The Student must submit a written grievance to the appropriate unit director or department head, who will typically serve as the grievance officer. In cases where the unit director or department head has involvement in the events leading to the grievance, the grievance may be submitted directly to the cognizant dean or vice president, who will then serve as the grievance officer, or will appoint another individual to serve in this capacity.

a. The student's grievance should be in the form of a memo and clearly identify that it is a grievance, using the word "grievance" in the subject line. The grievance memo should also include the following: (1) identification of the respondent(s) by name and job title, if known; (2) the issue or allegations that form the basis for the grievance and points in support of the grievant's position; (3) names of individuals with personal knowledge of the facts; and (4) a statement of the relief sought or the desired outcome.
b. After confirming that none of the processes identified in Part 3 applies to the facts alleged in the grievance, the grievance officer will conduct additional fact finding to ascertain all relevant facts. Typically, the grievance officer will facilitate a meeting between the involved parties, or will meet with each individually. Students are entitled to bring any support person of their choice to any meeting called for the purpose of grievance resolution; such support person is not permitted to actively advocate nor speak for the grievant, unless permitted as an approved disability accommodation. After consideration of the relevant facts, the unit head or department head will issue a written decision to the student and to the named respondent(s).
c. Step 2 will be concluded within twenty (20) Days of the date the grievance was received by the unit director or department head, absent extenuating circumstances and notice to the student.

3. **Step 3 (Appeal; Final Grievance Decision)**: The decision of the unit director or department head may be appealed within five (5) Days from receipt of the written decision, by submitting a written Notice of Student Grievance Appeal to the relevant campus president who will act as, or appoint another individual to serve, as the appeal officer.
    a. Upon receipt of the Notice of Student Grievance Appeal, all records pertaining to consideration of the grievance will be forwarded to the appeal officer by the grievance officer.
    b. The appeal officer will review the matter on appeal and issue a final decision on behalf of the university.
    c. As part of the appeal review process, the appellant and the parties involved in the grievance will be permitted to submit their position relative to the issues raised in the Notice of Student Grievance Appeal and to rebut the information submitted by the other parties to the appeal.
    d. Solely at the discretion of the appeal officer, the student and

the unit director or department head and/or other involved parties may be requested to attend a meeting in person to summarize their respective positions relative to the grievance decision on appeal, and to answer questions.

e. The appeal officer will consider the grievance record and any additional information offered by the parties and will issue a final decision supported by the facts found by a preponderance of the evidence standard. The final decision may uphold, reverse or modify the decision of the grievance officer. Absent extenuating circumstances and notice to the student, the final decision will be issued no later than twenty five (25) Days from the date the grievance record was received by the office of the appeal officer.

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 5 | Student Life and Conduct

**Rule Administrator:** VP Student Success and Enrollment Management

**Last Updated:** 06/12/2019

## Related

**Cross-Reference:**

**Revision History:**
06/12/2019 Amendment approved by Chancellor
03/08/2019 Incorporated into ARP from Student Handbook, per RPM 5.21 B.1.

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 5.10 – Student Academic Code of Conduct – Academic Integrity

arp.nmsu.edu/5-10

## PART 1:PURPOSE AND OVERVIEW

A. **Overview:** NMSU strives to cultivate an academic environment in which student scholarship thrives and is subject to rigorous academic standards. This rule sets the essential expectation for academic honesty throughout the university system. This rule provides definitions and roles/responsibilities, and addresses general process issues such as confidentiality, protection from retaliation, avoidance of conflict of interest, timeliness, types of sanctions, and level of Evidence required to prove an academic integrity violation.

B. **Companion Rule (ARP 5.11) Provides Procedures:** This rule must be read in conjunction with **ARP 5.11 – Procedures to Respond to Allegations of Student Academic Misconduct**, which provides the specific procedures by which allegations of student academic misconduct will be investigated and resolved. Those procedural steps include: initial response upon information indicating a violation of academic integrity, fact-finding investigation, evaluation of the facts and determination of level of sanction, presentation to student for acceptance of responsibility or request for hearing, hearing and decision and opportunity for a final review if a Level II Sanction is proposed. ARP 5.10 and **ARP 5.11** and appendices are collectively referred to as the Student Academic Code of Conduct. (*See **Appendix ARP 5.11 – A***, for flowchart diagramming the code's procedural steps).

## PART 2: NOTICE TO STUDENTS REGARDING ACADEMIC REQUIREMENTS

The Student Academic Code of Conduct applies throughout the NMSU system, and will be posted on the websites of the Office of the Dean of Students and the Graduate School, and may be published in the student handbook

and academic catalogs by way of restatement, summarization, cross reference or electronic link. At the beginning of each academic semester or session for each course or academic program, faculty members provide a syllabus or program handbook with expectations for academic performance required by their course or program. Each student is required to comply with the Student Academic Code of Conduct, applicable ethical and other standards required by the specific discipline, as well as the specific requirements stated on each course syllabus or program handbook.

## PART 3: EXPECTATION OF HONESTY IN ACADEMIC MATTERS

NMSU students are expected to maintain high academic, ethical, and professional standards of conduct, which requires honesty in all academic matters. Academic dishonesty may take a variety of forms, including but not limited to those listed below. ***(See Appendix ARP 5.10-A).***

A. **Cheating or Assisting to Cheat**: Cheating, knowingly assisting another in committing an act of cheating, having knowledge of cheating by others and not reporting it, or other form of academic dishonesty. Cheating as used in the Student Academic Code of Conduct includes but is not limited to deceiving, tricking, defrauding, and/or otherwise taking unfair or unethical advantage of a situation to benefit someone's grade, academic standing or status.
B. **Misrepresentation**: Misrepresentation, including non-disclosure when disclosure is required, in the completion of applications or other university records. An example of this would be concealment by a student of the fact they had attended another college or university, with associated failure to cause the registrar of that institution to submit the required transcript, whether or not credit was earned.
C. **Plagiarism**: The use of another person's work without acknowledgment, making it appear to be one's own.
    1. Any ideas, words, pictures, or other intellectual content taken from another source must be acknowledged in a citation that gives credit to the source.
    2. The prohibition of plagiarism applies irrespective of the origin of the material, including the Internet, another person's work, unpublished materials, or oral sources.
    3. Intentional and unintentional instances of plagiarism are considered instances of academic misconduct.
D. **Unauthorized Access to or Alteration of Academic Records**: Unauthorized changing of grades on an examination, in an

instructor's grade book, or on a grade report; or unauthorized access to academic computer records.

E. **Unauthorized Possession of Academic Material**: Unauthorized possession of examinations, any library resources, laboratory materials, or other course-related materials.

## PART 4: DEFINITIONS

A. **Academic Integrity Education Program**: An education program designed or purchased by NMSU for use in remediating cases of academic integrity, or for general educational purposes across campuses.

B. **Academic Misconduct Report Form**: A checklist provided by the Office of the Executive Vice President and Provost for use by the AI Investigator to document the allegations, the findings and the outcome in matters of alleged academic misconduct (***See Appendix ARP 5.11 – B).***

C. **Beyond a Reasonable Doubt**: Beyond a Reasonable Doubt is the evidentiary standard applied in criminal cases presuming the accused to be innocent unless the fact finder is satisfied beyond a reasonable doubt of the defendant's guilt. Beyond a Reasonable Doubt is a stricter burden of proof than Clear and Convincing Evidence, the standard to be applied in assessing whether or not the Student Academic Code of Conduct has been violated.

D. **Clear and Convincing Evidence**: Clear and Convincing Evidence is the amount of Evidence required by of the Student Academic Code of Conduct to prove an academic integrity violation. Clear and Convincing Evidence is that which makes it highly probable or reasonably certain that the alleged misconduct occurred. To prove a fact by Clear and Convincing Evidence requires Evidence more than a "Preponderance of the Evidence" and less than "Beyond a Reasonable Doubt". The Evidence must instantly tilt the scales in the affirmative when weighed against the Evidence in opposition.

E. **Course/Program Level Academic Misconduct**: Course/Program Level Academic Misconduct is that which would affect a student's academic standing in a course or academic program, and may include allegations such as plagiarism on a course assignment, cheating on an exam, or alteration of a faculty member/academic administrator's grade book. For Course Level Academic Misconduct, the faculty member or appropriate academic administrator associated with the course or academic program will be responsible as the AI Investigator.

F. **Day**: When a time limit refers to "Day", it refers to university work days rather than calendar Days (Monday through Friday), and excludes official university holidays and closures.

G. **Evidence**: Evidence is the proof presented by the involved parties in support of their respective positions which the fact finder(s) assess for reliability and credibility. The Evidence takes a variety of forms and may consist of:
    1. Documentation,
    2. Testimony from the involved party or from witnesses, based on personal knowledge or professional expertise,
    3. Video or audio recording, or
    4. Other relevant information.

H. **Level I Sanction**: Level I sanctions for intended for first time violations by undergraduate students and for less serious (e.g. unintentional) breaches of academic integrity. Level I sanctions are limited to one or more of the following:
    1. Verbal warning issued in coordination with the Academic Conduct Officer, to ensure the student signs the Academic Misconduct Report Form, acknowledging receipt of the warning, and for central documentation;
    2. Requirement to re-do an academic assignment;
    3. Imposition of a failing grade on an assignment; or
    4. Reduction of final grade in course by one letter grade.

I. **Level II Sanction**: Level II sanctions are imposed for first time violations by graduate students, and for repeat violations and more serious breaches of academic integrity by undergraduate students. Level II sanctions are limited to one or more of the following:
    1. Written reprimand issued in coordination with the Academic Conduct Officer, to ensure the student signs the Academic Misconduct Report Form, acknowledging receipt of the warning, and for central documentation;
    2. Imposition of a failing grade in the course;
    3. Disciplinary probation for a specified time period;
    4. Disciplinary suspension for a specified time period;
    5. Disciplinary dismissal for a specified time period; or
    6. A notation of academic misconduct on the student's official transcript.

J. **Informal Meeting**: An informational meeting scheduled by the Academic Conduct Officer once the facts and an appropriate sanction have been determined, to allow the parties to discuss the findings, any additional or disputed facts, and to explore whether or not the student wishes to accept responsibility and the sanction proposed, or whether the matter needs to be set for a hearing for disputed facts to be resolved by the Hearing Panel.

K. **Preponderance of the Evidence**: Preponderance of the Evidence is an evidentiary standard in some civil cases and is a lower burden of

proof than Clear and Convincing Evidence, the standard to be applied in assessing whether or not the Student Academic Code of Conduct has been violated. New Mexico law defines Preponderance of the Evidence as the greater weight of the Evidence, or that something is more likely true than not true.

L. **Student**: Each undergraduate and graduate student has a responsibility to report any observed or reasonably suspected academic misconduct to the relevant faculty member or academic administrator or to the Academic Conduct Officer, as well as a duty to cooperate in any investigative or administrative proceeding as may be requested or required by those charged with administering the Student Academic Code of Conduct.

M. **Student Academic Code of Conduct**: ARP 5.10 – Academic Integrity and **ARP 5.11- Procedures to Respond to Allegations of Student Academic Misconduct** together constitute the NMSU Student Academic Code of Conduct.

N. **University Level Academic Misconduct**: University Level Academic Misconduct is academic misconduct other than Course/Program Level Academic Misconduct. It pertains more generally to the student's general academic standing and may include allegations such as falsification of university records, misrepresentation regarding previous transcripts or degrees or forgery. For University Level Academic Misconduct, the registrar or designee will be responsible as the AI Investigator.

## PART 5: ROLES AND RESPONSIBILITIES

A. **Academic Conduct Officer**: An individual designated by the executive vice president and provost, whose duties will include:
   1. Providing procedural guidance relating to matters involving alleged academic misconduct to students, faculty and academic administrators, the registrar or designee and any hearing official charged with responsibility pursuant to the Student Academic Code of Conduct.
   2. Serving as non-voting member and chair of the Student Academic Conduct Board and providing and administrative support to this board and to the executive vice president and provost, including facilitating the hearing and final review processes within the NMSU system;
   3. Coordination with deans as may be necessary on a case by case basis to assist the AI Investigator in the determination of the facts and appropriate sanction;
   4. Reporting academic integrity violations to the Dean of Students for

further reporting as required by law; and

5. Other duties related to the administration of the Student Academic Code of Conduct.

B. **Academic Integrity Investigator (AI Investigator)**: The AI Investigator for Course or Program Level [Alleged] Misconduct will be the involved faculty member, who may be assisted by the department head or other appropriate academic administrator. The AI Investigator for University Level [Alleged] Academic Misconduct is the registrar or designee. *See* Part 4 above Definitions E. and N. It is the responsibility of the AI Investigator to coordinate with the Academic Conduct Officer and to fairly and promptly find the facts in accordance with the Student Academic Code of Conduct.

C. **Dean of Students**: The Dean of Students (or designee) works closely with the Academic Conduct Officer to ensure accurate reporting of academic integrity violations, and also to promote consistency throughout the university community relative to student discipline generally.

D. **Executive Vice President and Provost**: The executive vice president and provost or designee provides the final administrative review of Level II academic misconduct matters, based on the record received from the Formal Hearing Panel.

E. **Hearing Panel**: Three members (one academic administrator, one faculty member and one student) selected by the Academic Conduct Officer from the membership of the Student Academic Conduct Board to conduct an administrative hearing when alleged academic misconduct is contested. For cases involving Level I Sanctions, the Hearing Panel issues the final decision.

F. **Student Academic Conduct Board**: The Student Academic Conduct Board is a standing university board (*See* **RPM 2.30**). The Student Academic Conduct Board will consist of the following members, who will serve staggered terms as indicated below.

1. Fourteen members of faculty to serve staggered three year terms, consisting of four tenured or tenure-track faculty and two college faculty from NMSU-LC appointed by the Executive Vice President and Provost, and at least two faculty members of any classification from each community college, to be appointed by the respective community college president.
2. Three undergraduate students to serve a one year term, to be appointed by the ASNMSU President and confirmed by the ASNMSU Senate;
3. Two students from each community college to serve a one year term, to be appointed by each community college chief academic officer;

4. Three graduate students to serve a one year term, to be appointed by the Graduate Student Council;
5. Thirteen academic administrators with faculty rank (five from NMSU-LC and two from each community college) to serve staggered three terms, to be appointed by the Associate Deans Academic Council.

G. **Student Advisor**: A person chosen by the accused student to provide consultation, guidance and/or support to the student through the various procedural steps outlined in the Student Academic Code of Conduct. If the student needs assistance in identifying someone to serve as advisor, the ASNMSU Supreme Court Justice will designate someone to serve in such capacity on the student's behalf. The student advisor must not actively advocate or participate in the proceedings.

## PART 6: GOOD FAITH AND PROTECTION FROM RETALIATION

All individuals involved in the processes outlined in the Student Academic Conduct Code must act with honesty of intention when reporting, investigating and taking administrative action relating to alleged violations. Individuals who believe they are being retaliated against because they have in good faith reported a suspected violation, investigated a claim of academic dishonesty, cooperated in an investigation, testified or provided other Evidence during a hearing, conducted a hearing, imposed or proposed a sanction, issued a determination or decision, or otherwise taken action authorized by the Student Academic Code of Conduct, must report the retaliation promptly. If the claim is against a student, it should be reported to the Office of the Dean of Students. If the claim is against a faculty member or other employee, it should be reported to the Office of Human Resource Services. Allegations of retaliation will be investigated independently and objectively; corrective and/or disciplinary action will be administered as warranted by the findings.

## PART 7: TIMELINESS

AI Investigators and other officials with responsibility under the Student Academic Code of Conduct will perform their duties in a timely manner, which may include seeking an extension of time. The first request for an extension by either party will generally be granted by the Academic Conduct Officer. Second or subsequent requests for time extension from **a party** may be granted by the Academic Conduct Officer with consent from the other party, or when reasonable cause is shown. If the **AI Investigator, any hearing official**

**(Hearing Panel or executive vice president and provost or designee) or the Academic Conduct Officer** reasonably requires an extension of time, a notice will be sent to the parties, informing of the extended date by which the action will be taken, with weekly status reports until the action is concluded. All time extensions and status reports will be documented by the Academic Conduct Officer for the record.

## PART 8: CONFIDENTIALITY

An allegation of academic dishonesty is a serious matter, and may cause harm to a student's prospective academic or professional career. The internal investigation, hearing processes, and sanctions imposed, if any, will be administered using discretion and kept confidential on a "need to know" basis. Any university representative or student who becomes privy to the matter must maintain confidentiality. If other students are involved (e.g. as a witness), they will be instructed to maintain confidentiality. *See Also* **ARP 5.11**, Part 2, A. (Anonymous Reports).

## PART 9: FAIRNESS AND AVOIDANCE OF CONFLICT OF INTEREST

A. **Fairness Generally**: NMSU officials will perform their duties required by the Student Academic Code of Conduct in a thorough and impartial manner. No individual involved in an alleged violation of the Student Academic Code of Conduct shall seek to directly or indirectly influence the outcome or obtain relief from an NMSU official.
B. **Resolution of Perceived and Actual Conflicts of Interest**: As early as possible in the process, actual and perceived conflicts of interest should be disclosed or otherwise brought to the attention of the Academic Conduct Officer or Executive Vice President and provost, if the conflict involves the Academic Conduct officer. If a person alleged to have a conflict of interest will not voluntarily recuse themselves from an official role or duty, a decision will be made by the Academic Conduct Officer or the provost, as appropriate, to ensure a fair hearing process. The issue to be decided will be whether a reasonable person would believe that the facts presented would render the person accused of having the conflict to be unable to serve impartially. If an individual recuses themselves or is excused, alternate Hearing Panel members will be selected from the Student Academic Conduct Board, or if it involves the Academic Conduct Officer or the provost, the provost or chancellor will designate an alternate, respectively.

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 5 | Student Life and Conduct

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 01/02/2018

## Related

**Cross-Reference:**
**ARP 5.11 – Student Academic Code of Conduct – Procedures to Respond to Allegations of Student Academic Misconduct**

**Appendix – ARP 5.10-A – Examples of Academic Misconduct**

**Appendix – ARP 5.11-A – Procedures for Resolving Alleged Student Academic Misconduct**

**Appendix – ARP 5.11-B – Academic Misconduct Report Form**

***See also:***

**ARP 11.30 – Addressing Allegations of Misconduct in Research**

**Revision History:**

01/02/2018 Major revision (rewrite) approved by Chancellor with 08/13/2018 Effective Date

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 5.11 – Student Academic Code of Conduct – Procedures to Respond to Allegations of Student Academic Misconduct

arp.nmsu.edu/5-11

## PART 1: PURPOSE AND OVERVIEW

A. **Chief Academic Officer for NMSU**: The executive vice president and provost, as the chief academic officer for the university system (*See* **RPM, Policy 6.00**) delegates the responsibility for holding students accountable in instances involving student academic misconduct to the officials identified in the Student Academic Code of Conduct.

B. **Companion Rule 5.10 – Academic Integrity**: This rule must be read in conjunction with **Rule 5.10 – Student Academic Code of Conduct – Academic Integrity**, which sets the essential expectation for academic honesty throughout the university system, provides definitions, roles and responsibilities, and addresses general process issues such as confidentiality, protection from retaliation, avoidance of conflict of interest, timeliness, types of sanctions, and level of Evidence required to prove an academic integrity violation. Rules **5.10** and 5.11 and appendices are collectively referred to as the Student Academic Code of Conduct.

C. **Overview of Rule 5.11 Procedures**: This rule applies when faculty, academic administrators or the University Student Records Office officials observe, suspect or receive a third party report about possible academic misconduct. It provides a fair, expeditious and streamlined process by which allegations of academic misconduct will be resolved. *See **Appendix ARP 5.11 – A***, a flowchart which diagrams the procedural steps, including initial response, fact-finding investigation, evaluation of the facts and determination of level of sanction, presentation to student for acceptance of responsibility or request for hearing, and the hearing and final review processes through final decision.

## PART 2: INITIAL RESPONSE TO ALLEGATION

A. **Anonymous Reports**: Anonymous complaints must be investigated. The anonymity of the reporter may affect the ability to investigate, but does not preclude an investigation. Reporters may be assured that confidentiality will be maintained to the extent possible; however, due to the need to interview witnesses and report to supervisors, absolute confidentiality is not possible. All university personnel and students involved in investigative, disciplinary, hearing or final review processes are required to maintain confidentiality. *See Also* **ARP 5.10**, Part 8 (Confidentiality).

B. **Determination of AI Investigator**: To determine who should investigate an alleged occurrence of academic misconduct will depend upon whether it occurs in the context of a course or academic program, or whether it occurs more generally within the university. *See* **ARP 5.10**, Part 4, Definitions E. and N. Typically, the faculty member in coordination with academic administration will investigate, because the majority of the cases involve Course/Program Level Academic Misconduct.

C. **Use of Academic Misconduct Report Form**: The Academic Misconduct Report Form is to be used by the AI Investigator to facilitate the investigation and subsequent administrative action. (*See **Appendix ARP 5.11 – B***). No later than five Days of learning of the possible academic misconduct, the AI Investigator should document the pertinent facts and allegations on the form and confidentially transmit a copy of the partially completed form to the Academic Conduct Officer.

D. **Determination of Applicable Process**: Sometimes, **ARP 11.30 – Addressing Allegations of Misconduct in Research** or **ARP 5.15 – Degree Revocation or Expulsion from University** may be implicated, which rules provide distinct investigation and hearing processes. The Academic Conduct Officer, in consultation with the Office of General Counsel as necessary, will assist the AI Investigator to determine the applicable rule at any stage of the investigation, typically after some fact finding.

E. **Notification to Student**: Unless one of the exceptions in the subsections below applies, the Academic Conduct Officer will notify the involved student(s) about the allegations either in person or via secure official NMSU email. Notice (in the form of the partially completed Academic Misconduct Form) will be given no later than five Days from the Academic Conduct Officer's receipt of the allegations from the AI Investigator. The notice must refer the student to **ARP 5.10** and 5.11

    1. Notice need not be provided to the student if the Academic Conduct Officer concludes that even if the allegations asserted on the academic misconduct form were true, that the facts would not

constitute a violation of academic integrity. In such circumstances, the Academic Conduct Officer will close the matter and notify the AI Investigator, and forward the documentation to the Dean of Students.

2. If the Academic Conduct Officer concludes that due to the nature of the allegations, notification to the involved student(s) would impede the investigation (e.g. Evidence might be destroyed, Evidence of collusion might be compromised). In such circumstances, the Academic Conduct Officer will coordinate with the AI Investigator and provide notice with sufficient time for the student to be able to respond to the allegations during the investigation.

F. **Notification to Dean(s)**: When an investigation is commenced or at an appropriate time thereafter (*See* E. 2. immediately above), the Academic Conduct Officer will determine the appropriate deans to inform them that a case involving a student in their college or library is pending. The graduate dean will be notified for graduate students; the dean of students will be notified when an undergraduate student is involved.

## PART 3: FACT FINDING INVESTIGATION

A. **Each Case is Different**: Depending upon the nature of the allegations and complexity of each case, the time required for each investigation will vary. Complex cases may involve the gathering of documentation, interviewing third parties, assessing witness credibility, consulting with experts in the pertinent field, or pursing other methods and techniques aimed at discovering relevant Evidence. Other cases may not be complex, nor involve an abundance of Evidence.

B. **Expeditious Investigation and Resolution**: It is intended that these matters will be resolved as expeditiously as possible, typically within 15 Days after the AI Investigator informs the Academic Conduct Officer of the violation of academic integrity. Time extensions may be sought, particularly for complex cases, pursuant to **ARP 5.10** Part 7.

C. **Interview of Student During Investigation**: At the appropriate time(s), depending upon the nature of the case, the charges and the evidence will be discussed with the student, to give the student an opportunity to provide additional facts, including identification of witnesses not yet interviewed who may have relevant information.

## PART 4: EVALUATION OF FACTS AND DETERMINATION OF APPROPRIATE SANCTION

A. **Evidentiary Standard**: Clear and Convincing Evidence must be found to conclude that a violation of academic integrity has occurred. (*See* **ARP 5.10** Part 4, Definitions D. and G.)
B. **Educational Requirement**: Any violation of academic integrity may result in a requirement to participate in the Academic Integrity Education Program (*See* **ARP 5.10** Part 4. Definition A.), which may be in combination with a Level I or II sanction. (*See* **ARP 5.10** Part 4. Definitions H. and I.)
C. **Determination of Appropriate Level of Sanction**: The level of sanction for an offense substantiated by an investigation will depend on the severity of the offense. An offense is considered more serious when it is a second or subsequent offense. Level I sanctions are imposed for lesser offenses by undergraduate students. Level II sanctions are imposed for serious offenses, including repeat offenses by undergraduate students. Graduate students will receive a Level II sanction for any violation of the Student Academic Code of Conduct, even for a less serious or first offense.
    1. The AI Investigator and Academic Conduct Officer must confer about the investigative findings and discuss whether they support a finding of an academic integrity violation, and if so, what type of sanction would be appropriate. If they do not reach consensus, the Academic Conduct Officer jointly with the AI Investigator will contact the appropriate dean(s) for guidance.
    2. If it is concluded that the facts do not support a finding of an academic integrity violation by Clear and Convincing Evidence, the matter will be closed and the Academic Conduct Officer will record the final disposition of the matter as “allegations not substantiated/case closed” on the Academic Misconduct Report Form. The Academic Conduct Officer will send a copy of the form to the student, with an invitation to meet to discuss, at the student’s discretion. Neither the fact of an investigation nor the lack of finding will be reflected on the student’s official academic record.
    3. If it is concluded that the facts support a finding of an academic integrity violation by Clear and Convincing Evidence, the AI Investigator will complete the Academic Misconduct Report Form indicating the facts found and the Level I Sanction to be imposed, or the Level II Sanction being proposed, attach copies or reference the supporting evidence (e.g. documentation or description of anticipated witness testimony), and send to the student, with a duplicate copy to the Academic Conduct Officer. The student must be informed that Level 1 Sanctions will be imposed (unless otherwise agreed at the Informal Meeting), in

contrast with Level 2 Sanctions which are proposed pending final resolution. **The student is required to respond on a form provided by the Academic Conduct Officer indicating one of the following**:

a. The student accepts the findings and the sanction *[case will be closed and sanction imposed*];
b. The student accepts the findings, but contests the sanction *[case will be set for Informal Meeting]*;
c. The student contests the findings, but accepts the sanction despite not agreeing with the factual findings *[case will be closed and sanction imposed]*; or
d. The student contests both the findings and the sanction *[Level 1 sanction will be imposed unless timing for imposition is otherwise modified during the Informal Meeting; Level 2 sanction remains proposed and case will be set for Informal Meeting]*.

4. If the student does not submit the written response within 10 Days, the Academic Conduct Officer will send the parties a notice of Informal Meeting.
5. If either party does not appear for the Informal Meeting and absent emergent or other circumstances beyond the person's control, the Academic Conduct Officer will close the matter in favor of the individual who appeared for the Informal Meeting.

## PART 5: INFORMAL MEETING

The purpose for the Informal Meeting is to bring the parties together to discuss the facts which support the finding of an academic integrity violation and the sanction, findings and sanction, explore possible resolution, and inform about the next steps in the process.

A. **Mutual and Final Resolution**:
   1. If after discussion, the student elects to accept responsibility for the findings and the sanction, or disputes the facts yet accepts the sanction, an informal resolution will be documented on the Academic Misconduct Report Form or a supplement thereto, and must be signed by the parties.
   2. If as a result of the discussion, the student provides evidence not available previously during the investigation or other mitigating facts that warrant modification to the findings or to the sanction, this will be documented by addendum to the Academic Misconduct Report Form. If the student accepts the sanction after modification to either the findings or to the sanction,

the parties shall sign the addendum indicating their approval for the matter to be closed without further hearing.

B. **Partial Mutual Resolution**: If the addendum modifying the Academic Misconduct Report Form as indicated above only partially resolves the dispute, the addendum signed by the parties must clarify the remaining issues to be heard.
C. **Level I Sanction or Findings Contested**: If the findings or a Level 1 Sanction is contested, the Academic Conduct Officer will set the matter for hearing. Additionally, the Academic Conduct Officer may consider and grant any specific request that might be made relating to the timing or logistics of the imposition of the Level 1 Sanction, after hearing the position of each party relative to such request.
D. **Level II Sanction or Findings Contested**: If the findings or a Level II Sanction is contested, the Academic Conduct Officer will set the matter for hearing.
E. **Coordination regarding Hearing Date**: If the matter is contested, before the Informal Meeting is adjourned, the Academic Conduct Officer will obtain the parties' availability for the hearing to be set with a Hearing Panel.

## PART 6: HEARING TO CONTEST FINDINGS OR SANCTION

A. **Notice of Hearing**: The Academic Conduct Officer will send notice of the hearing to the student and to the AI Investigator within five Days of the Informal Meeting, to take place no later than twenty Days from the date of that meeting, unless agreed to otherwise by the parties. The notice of hearing must be delivered via secure official NMSU email, or as otherwise agreed to by the parties. The notice must identify the date, time and location for the hearing. It must also identify the members of the Hearing Panel by name and job title, to facilitate early resolution of conflicts of interest.
B. **Pre-Hearing Exchange of Evidence**: No later than 5 Days prior to the hearing, the parties must electronically submit to the Academic Conduct Officer and to the other party a list of witnesses and copies of the documentation they intend to present at the hearing. The Academic Conduct Officer will distribute to the Hearing Panel. If either party needs assistance in obtaining the cooperation of a witness who is either a student or an employee, the Academic Conduct Officer will work with either the Dean of Students, Graduate School Dean or Human Resource Services to ensure that the witness is notified and arrangements made for the witness to attend the hearing. Telephonic or other electronic

participation should be permitted for the convenience of the witness.

C. **Hearing must be Recorded**: The Hearing Panel and the Academic Conduct Officer must coordinate to ensure that the Evidence presented by all parties is preserved for the record, by audio or other method of recording. Documents should be identified for the record by the party who submitted the evidence. The university is not responsible to produce transcripts of the hearings, but the Academic Conduct Officer will provide a copy to the parties upon request.

D. **Burden of Proof**: The burden of proving the academic conduct violation by Clear and Convincing Evidence is on NMSU. The AI Investigator or other academic investigator, on behalf of NMSU, must present the Evidence to the Hearing Panel first. Time will be reserved to allow NMSU to rebut Evidence presented by the student. The Hearing Panel must allot sufficient time to each party to present their case, and may set reasonable limitations as needed to maintain order and to complete the hearing in a reasonable amount of time, based on the complexity of each case.

E. **Presentation of Evidence by the Parties**: The parties may each present evidence to the Hearing Panel in the form of documentation, witness testimony, their own testimony, as well as in the form of questions to the other party relating to their evidence or testimony or questions to the witnesses called by the other party. The Hearing Panel may but is not required to ask questions of the parties and the witnesses. Student Advisors (*See* **ARP 5.10**, Part 5. G.) must not actively advocate during the hearing.

F. **Maintaining Order During Hearing**: The Hearing Panel members, or Hearing Panel chair if one is identified, or the Academic Conduct Officer are authorized to take action to maintain order and decorum during the hearing, and may recess as may be necessary or requested by the parties.

G. **Deliberations Outside Presence of Parties**: At the conclusion of the hearing, the parties will be excused, and the Hearing Panel will deliberate and reach a majority decision. Absent a time extension *(See* **ARP 5.10** Part 7), the Hearing Panel will issue its decision in writing within ten Days following the date of the hearing.

    1. If the Hearing Panel finds an academic integrity violation, the decision must describe the Clear and Convincing Evidence in the record which supports the panel's findings and the sanction. A sanction imposed or proposed and contested by the student shall not be increased in severity by the Hearing Panel.
    2. If the Hearing Panel finds insufficient evidence to support the charges, the Hearing Panel must describe the lack of Clear and

Convincing Evidence. If the Hearing Panel finds insufficient evidence to support the charge and a Level I Sanction had already been imposed, the Hearing Panel must direct that the sanction be reversed. (Level II Sanctions should not have been imposed yet.)

H. **Decision Final for Level I Sanction**: For Level I Sanctions (*See* **ARP 5.10** Part 4. Definition H.), the Hearing Panel's decision is final.

I. **Decision with Level II Sanction Must Advise of Right to Final Review**: In cases where the Hearing Panel imposes a Level II sanction (*See* **ARP 5.10** Part 4. Definition I.), the decision must provide a reference to the parties' right to seek a final review of the findings or sanction consistent with Part 7 below.

## PART 7: RIGHT TO FINAL REVIEW OF LEVEL II SANCTION BY EVP/PROVOST (OR DESIGNEE)

A. **Initiation of Final Review**: A student or the AI Investigator may request a final review by the Office of the Executive Vice President and Provost or designee in matters involving Level II Sanctions by submitting a request for final review, attaching a copy of the Hearing Panel's decision, to the Office of the Executive Vice President and Provost within 5 Days after receipt of the decision. A copy of the request for final review must also be sent to the Academic Conduct Officer and to the other party.

B. **ACO Assembles Hearing Record for EVP/Provost**: Upon receipt of the request for final review, the Academic Conduct Officer will assemble the hearing record (the Academic Misconduct Form, documentation presented by the parties and the recording of the hearing) and deliver to the Office of the Executive Vice President and Provost. If the Academic Conduct Officer cannot provide the record within ten Days after receipt of the request for final review, the parties and the provost or designee must be notified about the need for additional time, and must notify all parties in writing when the hearing record has been delivered.

C. **EVP/Provost Review and Final Decision**: The executive vice president and provost or designee will review the hearing record and issue a written final decision on behalf of the university within 20 Days after the date of receipt of the hearing record, absent notification to the parties that an extension of time is necessary, in which case the parties will be kept apprised of the status on a weekly basis until the final decision is issued. The provost or designee may uphold, reverse or modify the Hearing Panel's decision, based on Clear and Convincing Evidence in the record or based on substantial procedural error having the potential to materially affect the outcome of the hearing. The final decision will

be issued to the parties, with a copy to the Academic Conduct Officer, confidentially via hand-delivery or secure official NMSU email and U.S. Mail.

## PART 8: IMPLEMENTATION OF SANCTIONS; INTERNAL AND EXTERNAL REPORTING DUTIES

A. **Timing for Imposition of Level II Sanctions**: Level II Sanctions will be not be imposed until after the hearing and any final review has been completed. In the event the sanction involves a suspension or dismissal, implementation of the sanction may be deferred to the end of a semester, at the discretion of the executive vice president and provost or designee.
B. **Administrative Action Pending Completion of Sanction**: The student must comply with any sanction imposed by acceptance of responsibility at the Informal Meeting or by imposition after hearing and/or final review. University officials may take administrative action necessary to ensure that the terms of the sanction are completed before the student will be permitted to continue formal studies or extracurricular activities at NMSU (register for next semester, receive certificates or diplomas etc.)
C. **Impact of Allegation/Investigation on Pending Studies**: Unless the disciplinary sanction specifically provides for an interim suspension for campus safety reasons, the pendency of an investigation or proceedings under the Student Academic Conduct Code will not prevent a student from attending classes they are currently enrolled in or completing extracurricular commitments.
D. **Findings Recorded in University Student Records Office**: A finding of an academic integrity violation becomes part of the student's educational record maintained by the University Student Records Office.
E. **ACO Reports Final Outcome to Dean(s)**: The Academic Conduct Officer will report the final outcome of each academic conduct matter to the relevant deans (e.g. course dean, major dean, library dean, honors dean, Dean of Students, graduate dean).
F. **ACO Reports Final Outcome to Dean of Students**: In all cases, the Academic Conduct Officer will report the final outcome to the University Student Records Office and to the Office of the Dean of Students, for purposes of coordinating the update necessary to the student's educational records, and also for compliance with the institution's student conduct reporting obligations.

## PART 9: REQUESTS BASED ON NEWLY DISCOVERED EVIDENCE

A. **Requests Based on Alleged New Evidence**: In addition to the provision at Part 5 B. above, whereby new evidence may be brought to the AI Investigator's attention during the Informal Meeting and result in amendment to the Academic Misconduct Report Form, if a party claims to have discovered new evidence relevant to the case after the completion of the investigation or other step in the proceedings which the party claims would have altered the outcome reached as of that point, it will be submitted to the Academic Conduct Officer, along with a specific request for action (e.g. request to re-open investigation, to re-open hearing or to set aside final decision).

B. **Review by ACO**: The Academic Conduct Officer will consider whether or not that evidence reasonably should have been discovered previously, and whether the proffered evidence would have materially altered the outcome. The Academic Conduct Officer will allow the other party to provide a position statement on the request. After consideration of the position of each party, the Academic Conduct Officer is authorized to decide the appropriate procedural response and may consult with the Office of General Counsel prior to issuing a response to the parties.

C. **ACO Determines Relief**: If the Academic Conduct Officer determines that the evidence proffered was not reasonably discoverable during the investigation, and is likely to materially alter the outcome, the Academic Conduct Officer may direct that the matter be stayed pending re-opening the investigation, re-convening the hearing or conducting a new hearing, depending upon the circumstances, to consider the additional evidence. If the final decision has been issued, the Executive Vice President and Academic Conduct Officer will confer prior to the issuance of the decision on the proffered new evidence.

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 5 | Student Life and Conduct

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 01/02/2018

## Related

**Cross-Reference:**
**RPM 6.00 - Human Resources**

**ARP 5.10 - Academic Integrity**

**ARP 5.15 – Degree Revocation and Expulsion from University**

**ARP 11.30 – Addressing Allegations of Misconduct in Research**

**Appendix – ARP 5.11-A – Procedures for Resolving Alleged Student Academic Misconduct**

**Appendix – ARP 5.11-B – Academic Misconduct Report Form**

**Revision History:**

01/02/2018 Major revision (rewrite) approved by Chancellor with 08/13/2018 Effective Date

---

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 5.13 – Undergraduate Student Academic Grievances

arp.nmsu.edu/5-13

A. **Procedure for Initiating Grievance Complaints**: This rule has been established to provide a method to resolve undergraduate student grievances at the lowest administrative level in a fair and expeditious manner. For the purpose of this procedure, grievances are limited to alleged violations of university policy or procedures by the university or its employees, disputes with faculty and/or alleged unfair treatment. This rule is typically used to appeal a grade the student feels was not justified. Under no condition should this rule be used when the student has allegedly violated the Student Social or Academic Code of Conduct or a contractual agreement, and at no hearing should either party have a lawyer. Any student who believes that they have been unjustly treated within the academic process may proceed as far as necessary in the steps detailed below. Should the alleged grievance not involve a faculty member or course, the student is to appeal directly to the department head or associate dean for academics in whose area or college the alleged grievance occurred.
    1. Appeal to the faculty member: The student is to submit a written appeal to the faculty member within 30 days after the start of the grading period following the grading period in which the alleged grievance occurred. If the alleged grievance occurs during a summer grading period, the student is to submit an appeal no later than 30 days into the fall grading period following the summer grading period in which the alleged grievance occurred. The faculty member and the student are to discuss the problem. Within ten working days of receipt of the student's written appeal, the faculty member will send a written decision to the student and department head or appropriate unit designee. Should the course under appeal be a library course, the student or faculty member should appeal to the associate dean of the library as the next step.
    2. Appeal to the department head or appropriate unit designee: If a decision satisfactory to the student cannot be reached, the student may submit a written appeal to the department head or appropriate unit designee in which the course in question was taught. This is to be done within ten days of the receipt of the faculty member's written decision. The faculty member, the department head or appropriate unit designee, and the student are to meet to discuss the problem. Within ten days of this

meeting, the department head or appropriate unit designee will send a written decision to the student and faculty member.

3. Appeals to the associate dean for academics or associate dean of the library: If a satisfactory decision cannot be reached among the department head or appropriate unit designee, the faculty member, and the student, the student or the faculty member may submit a written statement of appeal to the associate dean for academics of the college in which the course was taught. This is to be done within ten working days after the receipt of the written decision by the department head or appropriate unit designee. The associate dean may request a written recommendation from an Academic Appeals Board. Should this be the case, the Academic Appeals Board will conduct a hearing with the student and faculty member (not necessarily at the same time) to review the merits of the appeal. They may also ask for supporting evidence for or against the appeal. The Academic Appeals Board will submit its written recommendation to the associate dean within five working days following the conclusion of their review process. The associate dean may meet with the student, faculty member, and department head or appropriate unit designee to discuss the appeal (not necessarily at the same time). Within ten days from the last meeting, the associate dean will send their written decision to the student, faculty member, department head or appropriate unit designee, and dean.
4. Appeals to the dean: The dean of the college or the library in which the course is taught, or in whose college the alleged grievance occurred, may at the dean's discretion review the appeal upon the written request of the student or faculty member and render a final decision. An appeal to the dean is the last step in the appeals process and the dean's decision cannot be appealed further. Should the dean choose not to review the appeal, the decision of the associate dean for academics or associate dean of the library will be final.
5. Exceptions to the time involved: The associate dean for academics or associate dean of the library may waive the normal time frame for appeals for compelling reasons. Regardless of circumstances, academic appeals must be initiated with the course instructor within two years of the conclusion of the grading period in which the course was taken.
6. Enrollment: A student need not be enrolled at the university to initiate an appeal.

B. **Academic Appeals Board**: Within each college of the university and the library, an Academic Appeals Board will be appointed by the associate dean for academics to hear student appeals. Each Academic Appeals Board will consist of three faculty members and two students.

C. **Maintenance of records**: Instructors and/or departments must keep records used to compute individual grades for two years after the completion of a course. If a grade has been appealed, these records must be kept for at least two years after completion of the appeal. Departments, colleges, or the library may require that records be kept for longer periods.

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 5 | Student Life and Conduct

**Rule Administrator:**
**Last Updated:**
Not Available

## Related

**Cross-Reference:**

**Revision History:**
03/08/2019 Incorporated into ARP from Student Handbook, per RPM 5.21 B.1

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 5.14 – Graduate Student Academic Grievances

arp.nmsu.edu/5-14

A. **Appointment of Graduate Student Appeals Board**: Each academic year a standing committee, consisting of three members of the graduate faculty and two graduate students, is appointed by the dean of Graduate School to handle academic grievances, including grade appeals. Any graduate student who believes that he or she has been unjustly treated within the academic process may proceed as far as necessary in the following steps to resolve the grievance or grade appeal.

B. **Steps in Grievance Process**: In general, there are three levels at which an graduate student's academic grievance can be addressed:
   1. Step 1: the course instructor or advisor,
   2. Step 2: the department head, or
   3. Step 3: the dean of the Graduate School.

   If the initial grievance is with an instructor or advisor, the process begins at Step 1. If the initial grievance is with a departmental committee, the process begins at Step 3. In all instances, the process must begin at the lowest possible level.

C. **Procedures:**
   1. Under normal circumstances, the student should discuss the issue with the instructor/advisor.
   2. If the student is unable to resolve the issue through consultation with the faculty member, the student must submit a written memorandum detailing the grievance to the course instructor or advisor within 10 calendar days of the beginning of the following full (i.e., fall or spring) semester. The person to whom the memorandum is addressed must respond in writing within ten calendar days to the student.
   3. If the student is not satisfied with the response from Steps 1-2, the student must submit a written appeal to the department head within ten working days of the initial decision. If the student is initiating the appeal at the departmental level, the student must do so, in writing, within ten calendar days of the beginning of the following full (i.e., fall or spring) semester. The department head must respond in writing within ten working days to the student, the instructor or advisor (if one is involved), and the dean of Graduate School.

4. If the student is not satisfied with the response from Steps 1-3, the student must submit a written grade appeal letter to the academic dean's office of the college where the course is taught. If it is a grievance against a faculty member, then the academic dean's office where the course is taught would be that of the faculty member's college. The student has ten calendar days after receiving the decision of the department head. The associate dean of the given college has ten days to collect the necessary documents to make a decision on the student's appeal or grievance. Please note that additional days may be required to collect information from the faculty and/or student involved in the case. The academic dean's office where the course is taught may convene an ad hoc committee to investigate the case.
5. If after the fourth step the student or any of the other parties involved is still not satisfied with the response, the student must present to the dean of the Graduate School within ten working days a formal letter that provides specific details regarding the nature of the grievance. Copies of all documents including course materials and grades must accompany the letter. In the letter, the student can request that their case be presented to the Graduate Student Appeals Board. After receiving a letter complaint (not an email), the dean of the Graduate School will determine whether the complaint has merit. The graduate dean will do so after reviewing the letters from the faculty member, the department head and the office of the academic dean as well as the materials from the student and all those involved in the case. If the graduate dean determines that the appeal does not have merit, the dean will inform the appellant and other parties, in writing, within ten working days of receiving the appeal. Please note that additional days may be required to collect information from the faculty and/or student involved in the case. If the graduate dean decides that the appeal does have merit, the dean will convene the Graduate Student Appeals Board, normally within three weeks. The Graduate Student Appeals Board will conduct, within 60 days of their convening, whatever investigations and deliberations are necessary, and will forward to the dean of the Graduate School a recommendation to resolve the grievance.
6. After reviewing the recommendation of the Graduate Student Appeals Board, the dean of Graduate School will, within ten working days, inform all parties involved of the dean's decision in writing.
7. The dean of the Graduate School may waive the normal time frame for grievances when either party presents compelling evidence justifying such a delay, but grievances must be launched within one year. Grade appeals involving charges of plagiarism must follow the process established on

academic misconduct in the Student Code of Conduct., the web site is http://studenthandbook.nmsu.edu/. The Graduate School strongly encourages students to study and use the Plagiarism web site of the Library to learn of ways to avoid plagiarism: http://nmsu.libguides.com/plagiarism.

## Details

**Scope:** NMSU System

**Source:** ARP Administrative Rules and Procedures Chapter 5 | Student Life and Conduct

**Rule Administrator:**
**Last Updated:**
Not Available

## Related

**Cross-Reference:**

**Revision History:**
03/08/2019 Incorporated into ARP from Student Handbook, per RPM 5.21 B.1

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 5.15 – Degree Revocation and Expulsion from University

arp.nmsu.edu/5-15

The Board of Regents recognizes that on rare occasions a degree may be awarded to an individual who, upon review, has not properly completed all requirements for the degree.

## A. Allegations Reported To Dean

Allegations regarding academic misconduct which may result in permanent expulsion or degree revocation shall be brought immediately to the attention of the appropriate dean.

## B. Preliminary Investigation

The dean shall conduct a preliminary investigation with an appropriate professional body within the university.

1. The dean may consult experts in the professional field in which misconduct is suspected. The purpose of this consultation shall be to provide an evaluation of the alleged misconduct.
2. In all cases where such serious academic misconduct is suspected, the dean shall convene a misconduct review panel consisting of the department head of the appropriate department, or if appropriate, Graduate Council chair, the chair of the Faculty Senate, and an administrative officer of the unit in which the suspected misconduct occurred. No one who has participated in any previous decisions relating to the facts underlying the allegations in question may participate on the Review Panel (or on the ad hoc committee, described below). In the event of a conflict of interest, alleged bias against the accused or refusal to serve on the panel, the dean shall appoint a replacement from the senior faculty. This panel shall review the evidence and its evaluation, decide whether a formal charge is appropriate, and advise the dean and the executive vice president and provost.
3. If, after such preliminary investigation, serious academic misconduct which could result in degree revocation is suspected, the dean shall notify the executive vice president and provost.

## C. Formal Charges

If so advised, the dean shall:

1. Issue in writing a formal charge, detailing the basis for the charge, to be delivered to the accused as described below.
2. Notify the accused in writing of the formal charge(s), including the factual allegations, in detail, upon which such charge(s) are based. This notice will also inform the accused of the right to appear at a hearing before an ad hoc committee and to present evidence at that hearing. The notice shall inform the accused of the proposed date of the hearing and that, if the allegations are substantiated, the revocation of the accused's degree will be considered as a sanction. In addition, a copy of these procedures shall be included with the notice. This notice shall be delivered to the accused in person or by registered or certified mail, return receipt requested.

## D. Ad Hoc Hearing Committee

The ad hoc committee shall be composed of five senior faculty members appointed by the executive vice president and provost. The executive vice president and provost shall designate one member of the committee as the chair. In the event of a conflict of interest, bias against the accused, or refusal to serve on the committee, the executive vice president and provost shall appoint a replacement.

## E. Ad Hoc Committee Hearing Process

A hearing shall be held before the ad hoc committee, which hearing shall begin between 20 and 30 working days after the accused has been notified of the allegations, unless an earlier hearing is requested by the accused. The accused may request, and shall be granted, additional time, not to exceed 20 working days, to prepare for the hearing before the ad hoc committee. All hearings and appeals described in this procedure will be closed meetings, unless the accused student or former student requests that they be open to the public.

1. The accused shall be given the opportunity, at least 10 working days before the ad hoc committee hearing, to examine any documentary evidence that may be used in support of the allegations, and to interview any witnesses who will be called in support of the allegations.

2. The accused may be represented by legal counsel, at the accused's expense, who shall be allowed to fully participate in all proceedings following notice of the charge(s) to the accused.
3. The university may designate and appoint an attorney to present the evidence against the accused and to fully participate in all aspects of the proceedings.
4. The hearing by the ad hoc committee and any subsequent proceedings shall be recorded by certified court reporter.
5. All testimony before the ad hoc committee shall be sworn and upon the oath or affirmation of the witness.
6. The burden of proof shall be on the university to prove the charge(s) by clear and convincing evidence.
7. At the hearing before the ad hoc committee, the accused shall be entitled to present witnesses and cross-examine adverse witnesses, and to present such other written or documentary evidence as may be relevant to the charge(s).
8. No formal rules of evidence shall be used by the ad hoc committee. The chair shall control the conduct of the hearing and shall rule on the admissibility of any disputed evidence and may exclude any evidence which, by its nature, would appear to be untrustworthy, irrelevant, or redundant.
9. The ad hoc committee shall present written findings of fact to the dean. These findings shall state whether the charge(s) against the accused were substantiated by clear and convincing evidence and shall also set forth the specific pertinent factual findings established by the evidence. The ad hoc committee shall not make recommendations concerning possible sanctions.
10. The ad hoc committee's findings shall be by majority vote and shall be reported to the dean, in writing, within 10 working days of the conclusion of the hearing.
11. Following the hearing and upon receipt of the formal, written advice of the ad hoc committee, the dean shall decide upon the disposition of the case and, if appropriate, recommend the imposition of sanctions. Within 5 working days of the receipt of the ad hoc committee's report, the dean will forward the record, and the dean's decision and recommendations to the executive vice president and provost.
12. Within 5 working days following receipt of the disposition and recommendation from the dean, the executive vice president and provost will submit a recommendation as to sanctions, if any, together with the reports of the ad hoc committee and the dean, to the Chancellor.
13. The Chancellor will make a decision regarding the imposition of any sanction or penalty. This decision shall be rendered within 5 working days following receipt of the recommendation from the executive vice president and provost. The decision shall be delivered to the accused in person or by certified or registered mail, return receipt requested.

## F. Appeal to Board of Regents

The decision of the Chancellor may be appealed, in writing, to the Board of Regents. In the event the accused wishes to exercise such appeal, the accused shall, within 20 days of the date the decision of the Chancellor is mailed to the accused, provide the executive vice president and provost with written notice of appeal to the board. This notice shall be forwarded to the Chancellor. The Chancellor shall then forward the notice, a copy of the Chancellor's written decision, and the record of proceedings, including the evidence presented to the ad hoc committee, to the board. An appeal to the Board of Regents shall be considered by the board at its next regularly scheduled meeting:

1. The Board of Regents shall allow oral arguments by both the general counsel and counsel for the accused, or by the accused, not to exceed 30 minutes in length for each side.
2. The accused, and general counsel, may present written arguments to the board, by service upon the executive vice president and provost, not later than 10 working days prior to the time that the board will hear oral arguments.
3. The general counsel for the university shall be allowed to present its argument first, and to reserve any portion of the allotted 30 minutes for rebuttal following the accused's presentation.
4. The Board of Regents, by majority vote, in open session, may affirm the action of the Chancellor, modify such action, or dismiss the allegations against the accused.
5. The decision of the Board of Regents shall be reported, in writing, to the accused (by certified or registered mail, return receipt requested) within 30 days following oral argument, with a copy to the ad hoc committee.
6. The decision of the board shall be final.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 5 | Student Life and Conduct

**Rule Administrator:** Executive VP and Provost

**Last Updated:** Not Available

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 6.50

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 5.20 – SSCC – Overview of Student Social Code of Conduct (SSCC)

arp.nmsu.edu/5-20

## PART 1: INTRODUCTION

The Student Social Code of Conduct (SSCC) is authorized by the Regents of New Mexico State University (NMSU) as set forth in the Regents Policy Manual (RPM) 5.20. Rules 5.20 through 5.26 of the Administrative Rules and Procedures of NMSU (ARP) collectively constitute the SSCC, which clarifies student rights and responsibilities, and the role of Student Life, overseen by the Dean of Students. Academic misconduct (e.g. cheating on an exam, plagiarism) is outside the purview of the SSCC and is governed by ARP 5.10 and 5.11 (the Student Academic Code of Conduct (SACC).

The Dean of Students oversees student conduct matters for the NMSU system, including its community colleges, through the NMSU vice-president for student success. Any requirement to be fulfilled by the department of the Dean of Students under the SSCC may be addressed by the dean of students, or dean of student's designee at any campus.

The SSCC establishes core values which support the standards of social conduct expected of NMSU Students. Violations of the standards, when proven by a preponderance of the evidence, will result in a consequence commensurate with the nature of the violation, and the severity of the resulting harm or level of risk of harm created.

The SSCC also establishes procedures for: 1) reporting suspected or observed misconduct, 2) fact finding, 3) educational conferences, 4) issuance of Charge, and 5) hearings, sanctions and appeals.

The SSCC is organized as follows:

**5.20 SSCC – Overview of Student Social Code of Conduct (SSCC)**

PART 1: INTRODUCTION

PART 2: CORE VALUES

PART 3: DEFINITIONS AND ROLES

PART 4: ADMINISTRATION OF SSCC

**5.21 SSCC – Student Rights and Responsibilities**

**5.22 SSCC – Conduct Standards**

**5.23 SSCC – Interim Measures**

**5.24 SSCC – Amnesty for Emergency Reporting**

PART 1: PURPOSE

PART 2: REPORTING RESPONSIBILITIES

PART 3: SITUATIONS JUSTIFYING GRANT OF AMNESTY

PART 4: AMNESTY CONDITIONED UPON COMPLIANCE

PART 5: LIMITATIONS ON GRANT OF AMNESTY

**5.25 SSCC – Consequences for Violation**

PART 1: STUDENT CONDUCT RECORD

PART 2: TYPES OF SANCTIONS

PART 3: GUIDELINES FOR IMPOSING SANCTIONS

PART 4: PETITION FOR RELIEF FROM INDEFINITE SANCTION

**5.26 SSCC – Conduct Case Procedures**

PART I: GENERAL GUIDANCE

PART 2: CASE INITIATION

PART 3: EDUCATIONAL CONFERENCE

PART 4: ASSESSMENT OF FACTS; ISSUANCE OF FORMAL CHARGE

PART 5: PRE-HEARING PROCEDURES

PART 6: HEARING PROCEDURES

PART 7: SANCTIONING CONFERENCE IN 3.25 CASES (DISCRIMINATION AND TITLE IX)

PART 8: APPEAL PROCEDURES

## PART 2: CORE VALUES

The core values that underpin the social conduct standards set forth in **ARP 5.22** are as follows:

A. **Community**: NMSU Students welcome all individuals into their academic and social activities to enhance the learning and social environments.
B. **Integrity**: NMSU Students exemplify honesty, honor and a respect for the truth in all of their actions.
C. **Social Justice**: NMSU Students recognize the dignity of every person, anticipating and appreciating how their decisions and actions may have an impact on others. NMSU Students are just and equitable in their treatment of all members of the community, and take action to discourage and challenge others who may seek to harm or diminish the worth of others.
D. **Respec**t: NMSU Students show consideration and positive regard for each other and for members of the community, through their words and actions.
E. **Responsibility**: NMSU Students accept responsibility for their own conduct and its impact upon self, others and the community, seeking guidance and assistance as necessary and appropriate.

## PART 3: DEFINITIONS AND ROLES

Terms defined for purposes of the SSCC are capitalized throughout the SSCC, to denote such defined status.

A. **Appeal Officer:** The individual who decides whether to accept a Respondent's or Complainant's appeal from a Hearing Officer's decision and imposition of Sanctions, and if accepted, reviews the hearing record, the appeal petition and any response to the petition, and issues a decision regarding the appeal. The Appeal Officer cannot have been directly involved in the investigation, the decision to initiate a charge or the original determination by the Hearing Officer. For NMSU's Las Cruces campus, Student Life's vice president for student success or designee serves as Appeal Officer. For the community colleges, each campus president or

designee serves as Appeal Officer. In the event these officials are not available to serve (e.g. scheduling conflict, conflict of interest, lack of objectivity due to prior involvement), the executive vice president and provost or designee will serve as Appeal Officer.

B. **Case Administrator**: The individual designated to facilitate the SSCC process, and who is not eligible to serve as either Hearing Officer or Appeal Officer. The Case Administrators from the community colleges work in coordination with the Dean of Students. The dean of students designates the Case Administrators, and may also elect to serve in this role.
C. **Charge**: A formal written notification to a Respondent 1) informing them that they are the subject of an SSCC conduct investigation, 2) describing the misconduct they are alleged to have committed or participated in, and 3) describing the provisions of the SSCC the alleged conduct violates and the likely sanction, should such allegation be proven or admitted to by Respondent.
D. **Complainant (aka Reporter)**: A person who submits a complaint or report to the Dean of Students, or other appropriate NMSU employee, indicating that a student may have violated the SSCC Conduct Standards and/or who asserts injury, damage or loss (to person, property, or reputation) as a result of a student's alleged behavior.
E. **Day**: A business day, defined as Monday through Friday 8:00 a.m. to 5:00 p.m., except for those days designated as official NMSU holidays or subject to an official university closure.
F. **Dean of Students**: In upper case, "Dean of Students" denotes the NMSU department headed by the dean of students (located on the 2nd floor of the Corbett Center Student Union Building), which is a component of the Student Life Division.
   In lower case, "dean of students" is a position title referring to the individual holding the position of dean of students, who serves as NMSU's chief conduct administrator for the NMSU System, and also serves as the director of the Student Life Division.
G. **Educational Conference**: An informal, interactive meeting between the Case Administrator and a Student alleged to have violated the SSCC. See ARP 5.26 Part 4.
H. **Hearing Officer**: An NMSU employee or agent, other than the Case Administrator, who conducts the fact-finding hearing in non-3.25 cases conduct cases, and renders a determination based on a preponderance of the evidence. Upon a finding of responsibility for a violation of the SSCC by OIE in a 3.25 case, or a determination by the Hearing Officer in a non-3.25 case, the Hearing Officer imposes an appropriate Sanction. The dean of students appoints the Hearing Officer or may serve as the Hearing Officer.

I. **Interim Measures**: Individualized services or resources offered to or required for parties involved in a conduct case, including both supportive and temporary protective measures. (**See ARP 5.23 – Interim Measures**)
J. **Investigate/tion**: The follow through on an alleged SSCC violation to ascertain the facts related to the alleged details and circumstances. Investigations may be a part of an Educational Conference, may result in additional charges, or may result in dismissal of the SSCC case. This determination is made at the sole discretion of the Dean of Students and/or designee.
K. **Notice:** A written communication which may be delivered in person, by U.S. mail, or through secure electronic transmission to or from the addressee's official NMSU email account. Text messages and social media postings, albeit in written form, are not sufficiently formal to serve as "Notice" for purposes of the SSCC, but may be used for reminders and less formal correspondence.
L. **NMSU Community**: Includes NMSU Students, faculty and staff and visitors to campus (e.g. volunteers, vendors, members of the public attending NMSU functions).
M. **NMSU Property**: All land, facilities and other property owned, operated or controlled by the Regents of NMSU.
N. **NMSU Sponsored Activities**: Events or activities involving Students, Student Organizations, or NMSU departments, faculty members, or employees that are:
    1. expressly authorized, aided, conducted or supervised by NMSU;
    2. funded in whole or in part by NMSU; or
    3. initiated by an officially chartered Student Organization and conducted or promoted in the name of that Student Organization or NMSU.
O. **Preponderance of the Evidence**: The amount of evidence required to prove a violation of the SSCC. A Preponderance of the Evidence means "more likely than not", or stated another way, Preponderance of the Evidence means the "greater weight of the evidence".
P. **Reporter**: A person or entity who submits a complaint or report to the Dean of Students or other appropriate NMSU employee alleging that a Student or Student Organization violated the SSCC.
Q. **Respondent**: A Student or Student Organization charged with violating one or more provisions of the SSCC.
R. **Sanction**: A Sanction is a disciplinary measure intended to educate the Respondent, remedy the harm, and/or to deter future misconduct.
S. **Student**: An individual admitted or enrolled, for any type of credit or not for-credit course, offered by NMSU or any of its community colleges, as well

as an individual not yet officially enrolled for a particular term, but who has a continuing relationship with NMSU, as determined by the Dean of Students. Examples of a continuing relationship include: 1) when a student leaves NMSU with a disciplinary matter pending, 2) when a student is suspended or dismissed, or 3) when a student is away from NMSU during summer break, a period of clinical or other experiential learning or study abroad experience.

T. **Student Organization**: Any group of Students officially recognized by NMSU as a chartered Student Organization.

U. **Support Advisor**: An individual chosen by a Student to serve as an advisor in a supporting role during a Student disciplinary proceeding. Both the Complainant and the Respondent may elect to utilize a Support Advisor during any meeting, Educational Conference or hearing. The Support Advisor may consult with and advise the Student at any time during the course of the relevant meeting or outside the meeting. The Support Advisor may raise legitimate objections to questions during an investigatory interview or hearing, but may not answer questions on behalf of the Student or unreasonably delay or interfere with the proceeding.

V. **Title IX**: Title IX refers to *Title IX of the Education Amendments of 1972, and its implementing regulation at 34 C.F.R. Part 106.* This federal law prohibits the exclusion of any person from participating in or from receiving benefits of, or any discrimination in, educational programs or activities, based on their See **RPM 3.25 – Equal Opportunity and Prohibition of Unlawful Discrimination**, **ARP 3.25-Discrimination, Harassment and Sexual Misconduct on Campus.**

## PART 4: ADMINISTRATION OF SSCC

1. **Authority of Dean of Students:** Before initiating a conduct case, the Dean of Students will determine whether the allegations of misconduct fall within the Dean of Students' authority. The Dean of Students (or community college designee), has authority to open and pursue conduct cases, including conducting or directing investigations, educational conferences, assessment of facts and sanctions, pre-hearing tasks and hearings including the imposition of sanctions, under these circumstances:
    1. Alleged Student misconduct occurs on NMSU Property; or
    2. Alleged Student misconduct has a substantial nexus with NMSU Property or a substantial impact on a member of the University Community. Such an impact is recognized when the misconduct:
        a. substantially interferes with or causes substantial harm to the

NMSU mission, its finances, or reputation;
   b. occurs at or in connection with an NMSU sponsored event;
   c. involves an NMSU official or volunteer acting in their official capacity; or
   d. creates a threat to the safety and security of NMSU property or any member of the NMSU Community.
3. The alleged misconduct first came to the attention of NMSU within the prior one year period; however, in the case of serious misconduct, the vice president of student success and the OIE Director may grant permission for a conduct case to be initiated after the one year time period has expired.

2. **Concurrent NMSU Disciplinary Proceedings**: Based on a Student's role within the NMSU Community, the Student may be subject to more than one set of conduct standards and consequences for the same misconduct. Examples of dual or multiple roles students may have include that of a campus resident, student athlete, member of ROTC or other student organizations, enrollment in dual credit courses or Early College High School. The various rules and processes related to each of these roles apply independently from the SSCC, and may occur concurrently; the outcome of one may or may not affect the outcome of the other process.
3. **Concurrent SSCC Cases and Court Proceedings**: Misconduct under this SSCC may result in proceedings under both the SSCC and civil or criminal law. Generally, an SSCC conduct case proceeds without regard to the pendency or status of any criminal investigation or other legal proceedings. Determinations made or *sanctions*imposed as a part of an SSCC process *shall* not be subject to change because criminal *charges* were dismissed, reduced, or resolved in favor of or against the criminal law defendant.

## Details

**Scope:** NMSU System

**Source:** ARP Administrative Rules and Procedures Chapter 5 | Student Life and Conduct

**Rule Administrator:** VP Student Success and Enrollment Management

**Last Updated:** 08/13/2019

## Related

**Cross-Reference:**

5.21 - SSCC Student Rights and Responsibilities
5.22 - SSCC Social Conduct Standards (Prohibited Conduct)
5.23 - SSCC Interim Measures
5.24 - SSCC Amnesty for Emergency Reporting
5.25 - SSCC Consequences for Violation
5.26 - SSCC Conduct Case Procedures

**Revision History:**

08/13/2019 Amendment approved by Chancellor
05/24/2019 Amendment updating and restructuring the Student Social Code of Conduct as ARP 5.20 – ARP 5.26
03/08/2019 Student Social Code of Conduct relocated from Student Handbook, pursuant to revised RPM 5.20 C. 1.
08/15/2015 Amended pursuant to Policy 3.101, Authorization of Student Social Code of Conduct (subsequently recompiled as RPM 5.20)

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 5.21 – SSCC – Student Rights and Responsibilities

arp.nmsu.edu/5-21

Below is a non-exhaustive list of Student rights and responsibilities, in the context of expectations for social conduct. Procedural rights and responsibilities under SSCC conduct cases are set forth in **ARP 5.26.**

A. **Duty to Cooperate Consistent with Constitutional Rights**: Students in any capacity (e.g. involved party or a witness) must be honest and cooperative with NMSU officials during investigative and hearing/appeal processes. This responsibility is subject to a student's constitutional right to remain silent, and not implicate oneself in a crime. If a student exercises the right to remain silent, or elects not to participate at all in the proceedings, the Hearing Officer may proceed based upon evidence gathered from other sources.
B. **Fairness of SSCC Proceeding**: Students have the right to notice that they are accused of misconduct in violation of the SSCC, and a fair and impartial process in the investigation and determination of the SSCC case. The specific procedures are described in **ARP 5.26 – SSCC Procedures**.
C. **Policy Compliance**: Students are deemed to have knowledge of and are responsible for abiding by NMSU policy, rules and regulations (**arp.nmsu.edu** and **rpm.nmsu.edu**), including but not limited to this Student Social Code of Conduct and the Student Academic Code of Conduct (**ARP 5.10** and **5.11**).
D. **Non-Discrimination**: Students have the right to an academic and work environment free of illegal discrimination. The NMSU Notice of Non-Discrimination is available here: **https://equity.nmsu.edu/notice-of-non-discrimination/**. Discrimination is governed by **ARP 3.25-Discrimination, Harassment and Sexual Misconduct on Campus**.
E. **Reasonable Accommodation**: Students have the right to request a reasonable accommodation based on disability. To request an accommodation, the Student may contact the Dean of Students directly at 575-646-1722, or the Student Accessibility Services at 575-646-6840 (V/TTY) or **sas@nmsu.edu**.
F. **Sanction Compliance**: Students must complete all sanction(s) accepted or imposed by the Hearing Officer or Appeal Officer, as appropriate, and

notify the Dean of Students that the sanction(s) has been completed.

G. **Supportive or Protective Relief**: Students may request interim academic or personal supportive or protective relief from OIE or DOS as appropriate, based on the specific circumstances relating to a conduct case. (See **ARP 23-Interim Measures**)

H. **Use of NMSU Email Account**: Students are required to check their assigned NMSU email account regularly for official correspondence relating to student status. Students are responsible for reading and responding to communications sent to their NMSU email account. A failure to participate in an SSCC conduct case based on a lack of actual knowledge of items delivered to the Student's NMSU email account is not a viable excuse or defense.

## Details

**Scope:** NMSU System

**Source:** ARP Administrative Rules and Procedures Chapter 5 | Student Life and Conduct

**Rule Administrator:** VP Student Success and Enrollment Management

**Last Updated:** 08/13/2019

## Related

**Cross-Reference:**
5.20 - SSCC Student Social Code of Conduct Overview
5.22 - SSCC Social Conduct Standards (Prohibited Conduct)
5.23 - SSCC Interim Measures
5.24 - SSCC Amnesty for Emergency Reporting
5.25 - SSCC Consequences for Violation
5.26 - SSCC Conduct Case Procedures

**Revision History:**
08/13/2019 Amendment approved by Chancellor
05/24/2019 Amendment updating and restructuring the Student Social Code of Conduct as ARP 5.20 – ARP 5.26
03/08/2019 Student Social Code of Conduct relocated from Student Handbook,

pursuant to revised RPM 5.20 C. 1.
08/15/2015 Amended pursuant to Policy 3.101, Authorization of Student Social Code of Conduct (subsequently recompiled as RPM 5.20)

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 5.22 – SSCC Conduct Standards

arp.nmsu.edu/5-22

The prohibited conduct described below is inconsistent with the core values identified in Part 2 of **ARP 5.20 – Overview of the Student Social Code of Conduct**. All prohibited conduct is subject to administrative action pursuant to the SSCC, including that carried out using telephone, text message, computer, email, social media or any other electronic or digital format. Text messages and other information provided to the Dean of Students, as well as online postings such as blogs, web postings, chats, images, and social networking sites in the public sphere may be used as evidence in disciplinary proceedings.

A. **Abuse or Interference with Conduct Process**: Interference with or failure to comply with NMSU processes, including this SSCC and the Student Academic Code of Conduct. Abuse of Conduct Process includes and is not limited to:
    1. falsification, distortion, or misrepresentation of information;
    2. refusal or failure to provide information for an investigation;
    3. destruction or concealment of information during an investigation;
    4. any behavior intended to discourage someone from reporting a potential violation of NMSU policy, cooperating in an investigation, participating in proceedings, or otherwise cooperating with officials relating to a violation of NMSU policy;
B. **Alcohol**: Violations of law or NMSU policies, rules or procedures pertaining to alcohol, including but not limited to:
    1. consuming or possessing alcohol by an individual under the legal drinking age;
    2. being intoxicated in public;
    3. behaving in disorderly manner as a result of alcohol;
    4. providing alcohol to individuals below the legal drinking age; or
    5. allowing alcohol to be served to individuals below the legal drinking age.
C. **Animals**: With the exception of service and emotional support animals, animals are not permitted on NMSU Property except in accordance with **ARP 3.45 – Assistive, Service, and Companion Animals on NMSU Premises**.

D. **Bullying/Cyberbullying**: An act or omission (not based on discriminatory motives prohibited by RPM and ARP 3.25) committed with the intention of intimidation or causing emotional distress or other harm. Bullying is typically directed toward a person perceived to be vulnerable or less powerful, but may also be directed at a group of individuals. Bullying is prohibited regardless of how it is carried out (e.g. verbally, physically, through third parties, or using social media or other electronic or technological means. (See **ARP 3.25-Discrimination, Harassment and Sexual Misconduct on Campus** and **ARP 3.80- Prohibition of Bullying, Hazing and Hostile Misconduct (Non-Discriminatory)**).
E. **Complicity**: Involvement, through action or failure to act, in a situation that a reasonable person under the circumstances would anticipate harm or damage (e.g. scheming, planning, aiding, unacceptable bystander behavior).
F. **Discrimination**: Adverse Treatment based on membership in a protected class as defined in **ARP 3.25-Discrimination, Harassment and Sexual Misconduct on Campus** (e.g. race, sex (pregnancy), sexual orientation, gender identity, religion, disability).
G. **Discriminatory Harassment**: One form of illegal discrimination consisting of unwelcome verbal, physical or virtual conduct based on an individual's protected status (See **ARP 3.25-Discrimination, Harassment and Sexual Misconduct on Campus**) that is severe or pervasive enough to create an academic or work environment that a reasonable person would consider intimidating, hostile or abusive.
H. **Disruptive Behavior**: Any activity, individually or in concert with others, which causes or constitutes a disturbance, noise, riot or obstruction which substantially interferes with the free movement of persons about the campus or which interferes with the free, normal, and uninterrupted use of the campus for educational programs, business activities and related residential, food service and recreational activities.
I. **Drugs**: Violations of local, state or federal laws or campus policies, rules or procedures pertaining to drugs including but not limited to:
    1. the use of substances defined by state or federal law as illegal drugs;
    2. selling or distributing illegal drugs regardless of age;
    3. hosting a party or event where illegal drugs are used; or
    4. abuse, misuse, sale, or distribution of prescription or over-the counter medication.
J. **Election Tampering**: Tampering with an election on campus, including elections conducted by ASNMSU, NMSU recognized Student Organizations or other campus constituencies.
K. **Failure to Comply**: Failure to comply with the reasonable and lawful directives of NMSU officials.

L. **Falsification**: Knowingly furnishing or possessing false, falsified or forged materials, documents, accounts, records, identification, or financial instruments.

M. **Financial Misconduct**: Any dishonest or illegal activity relating to the student's financial responsibilities to NMSU, including, but not limited to: knowingly passing a worthless check, money order, or credit/debit card in payment to NMSU.

N. **Fire Safety**: Violation of local, state, federal or campus fire policies including, but not limited to:
    1. intentionally or recklessly causing a fire which damages NMSU or personal property or which causes injury;
    2. failing to evacuate an NMSU controlled building during a fire alarm;
    3. improperly using NMSU fire safety equipment; or
    4. tampering with or improperly engaging a fire alarm or fire detection/control equipment.

O. **Gambling**: Gambling as defined and prohibited by the applicable state law.

P. **Hazing**: Conduct connected to membership in NMSU sanctioned organizations (e.g. club, collegiate or intramural team, order, unit or other group officially affiliated with NMSU) which creates an unreasonable risk of emotional or physical harm, causing actual emotional or physical harm, or interfering with an individual's academic endeavors, progress or environment.

    Examples of such behavior include, but are not limited to: misusing authority by virtue of one's class rank or leadership position, striking another student by hand or with any instrument, depriving a person of sleep, requiring the consumption of liquids or solids, requiring standing for unreasonable amount of time, requiring a violation of NMSU policy or state or federal laws.

    It is not a defense that the person (or group) hazed consented to, or acquiesced to, the behavior in question. Having firsthand knowledge of the planning of such activities or firsthand knowledge that an incident of this type has occurred and failing to report it to appropriate NMSU officials (Dean of Student Life and/or University Police Department will also be considered to be a Hazing violation, as well as "Complicity".

Q. **Health and Safety Hazard**: Creation of a health or safety hazard including an unreasonable risk of harm to health or safety including: dangerous pranks, hanging out of or climbing from/on/in windows, balconies, roofs or improperly gaining access to structures or facilities which are not open for student use.

R. **Ineligible Pledging or Association**: Pledging or associating with a Student Organization without having met eligibility requirements established by

NMSU.

S. **Misuse of NMSU Information and Communications Technology**: Violation of NMSU policies, rules, procedures or other directives, including those governing the use of technological hardware or software, electronic, digital or other media, copyrighted material and protected data (e.g. **ARP 11 – Acceptable Use of ICT Equipment and Resources**).
T. **Personal Injury or Property Damage**: Intentional, reckless or negligent harm to a person or damage to, or destruction of, NMSU property or the property of another.
U. **Public Exposure**: Deliberately and publicly exposing one's intimate body parts, including but not limited to public urination, defecation, and public sex acts.
V. **Retaliation**: An adverse action threatened or taken against any individual because of that individual's participation in the SSCC conduct process or any NMSU sanctioned complaint or investigation process. Examples of protected activity include filing a complaint, supporting or assisting someone who filed a complaint, cooperating with an investigator or providing testimony as a witness. Retaliation in any form is prohibited, whether verbal or physical, including by email, text, social media or other telephonic or electronic means, or carried out or communicated through a third party.
W. **Sexual Misconduct**: A broad term that encompasses all forms of prohibited sex discrimination including sexual or gender based harassment; stalking; rape and intimate partner violence (dating violence, domestic violence, relationship violence). (See **ARP 3.25-Discrimination, Harassment and Sexual Misconduct on Campus**)
X. **Smoking and Tobacco Use (including E-Cigs) Restrictions:** Smoking tobacco products and substitutes for such products (vapor/e-cigs): 1) inside any buildings owned or leased by NMSU, as well as within 25 feet of an entrance or exit to such a building, 2) in NMSU owned vehicles, and 3) during some organized outdoor events on NMSU property. (See **ARP 16.63 – Smoking and Tobacco Use Restrictions**)
Y. **Taking of Property/Damaging Property**:
    1. Intentional and/or unauthorized taking of NMSU property or the personal property of another, including goods, services and other valuables, or knowingly accepting possession of stolen property.
    2. Behavior that destroys, damages, or litters any property of NMSU property or the personal property of a NMSU community member, another institution, or another person.
Z. **Threatening Behavior**: Written or verbal conduct that causes a reasonable fear of imminent harm or injury to the health or safety of any person or of

damage to any property.

AA. **Trademark/Copyright (Logo) Infringement:** Unauthorized use of NMSU names and logos, trademarks, or any violation of copyright law. (See **ARP 11 Part 2 C.; ARP 15.80 – Use of NMSU Logo; University Communications**)

AB. **Unauthorized Access; Failure to Report Lost NMSU ID or Key**:
   1. access to a building, structure or area not open to students and obtained without permission;
   2. unauthorized possession, duplication or use of means of access to any NMSU building; or
   3. failure to report a lost NMSU identification card or key.

AC. **Violation of NMSU Policy**: Violation of NMSU policies, rules or procedures except as otherwise provided in the SSCC (e.g. violation of Student Academic Code of Conduct, ARP 5.10-5.11).

AD. **Violations of Law**: Violation of local, state, or federal laws that creates a significant risk of harm to the safety and security and well-being of NMSU or any member of the NMSU Community.

AE. **Weapons and Other Explosive Materials/Devices**: Possession, use, or distribution of any object intended to be used as a weapon, including explosives (e.g. fireworks), guns (including ammunition, air, BB, paintball, facsimile weapons, and pellet guns), or other weapons or dangerous objects such as arrows, axes, machetes, nun chucks, throwing stars, or knives.

## Details

**Scope:** NMSU System

**Source:** ARP Administrative Rules and Procedures Chapter 5 | Student Life and Conduct

**Rule Administrator:** VP Student Success and Enrollment Management

**Last Updated:** 08/13/2019

## Related

**Cross-Reference:**
5.20 - SSCC Student Social Code of Conduct Overview
5.21 - SSCC Student Rights and Responsibilities
5.23 - SSCC Interim Measures

5.24 - SSCC Amnesty for Emergency Reporting
5.25 - SSCC Consequences for Violation
5.26 - SSCC Conduct Case Procedures

**Revision History:**
08/13/2019 Amendment approved by Chancellor
05/24/2019 Amendment updating and restructuring the Student Social Code of Conduct as ARP 5.20 – ARP 5.26
03/08/2019 Student Social Code of Conduct relocated from Student Handbook, pursuant to revised RPM 5.20 C. 1.
08/15/2015 Amended pursuant to Policy 3.101, Authorization of Student Social Code of Conduct (subsequently recompiled as RPM 5.20)

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 5.23 – SSCC Interim Measures

arp.nmsu.edu/5-23

Depending upon the allegations and circumstances, Interim Measures (supportive or protective) may be imposed, affecting one or multiple parties to an SSCC proceeding. The imposition of an Interim Measure is not an indication of responsibility for a violation of the SSCC, nor a substitute for a Sanction. Interim Measures may remain in effect after the conclusion of a student conduct case.

A. **Nature of Interim Measure:**
    1. Supportive or protective measures are instituted through the Office of Institutional Equity in coordination with the NMSU Title IX Coordinator, or designee, in response to allegations of sexual harassment, sexual assault, sexual misconduct, or any other form of protected class discrimination. The Dean of Students may also initiate an Interim Measure in a Title IX matter consistent with Section D. below.
    2. Protective measures (e.g. No Contact Orders) are instituted through the Dean of Students, or other authorized NMSU officials, in response to direct threats to the health, safety or welfare of a student or other member of the NMSU community (See **ARP 16.21 – No Trespass Directive – Restricted Campus Access**).
B. **Examples of Interim Measures:**
    1. referrals to counseling or other service/resources;
    2. extensions of time and other course-related adjustments;
    3. modification to work or class schedules, including authorized leaves of absence;
    4. campus escort services;
    5. restrictions on contact between the individuals;
    6. No Trespass Directive (See **ARP 16.21**);
    7. other directives restricting activities on campus, changes in dining or housing arrangements;
    8. increased security and monitoring of certain areas of campus; and
    9. other similar accommodations.
C. **Purpose and Timeframe**: Interim Measures support students affected by alleged violations of the SSCC, or provide for the safety and protection of

members of the NMSU Community. To ensure that an Interim Measure remains necessary and effective, Interim Measures should be reassessed periodically.

D. **Initiation of Interim Measure**: An Interim Measure may be requested by any concerned person or university official, including the involved party or the Case Administrator.
    1. Requests should be directed to the Dean of Students, except in conduct cases alleging unlawful discrimination (e.g. Title IX), in which case they should be directed to the Office of Institutional Equity.
        a. If the Dean of Students receives a request for Interim Measure relating to a Title IX or involving protected class discrimination, the Dean of Students (or community college vice president for student success) will immediately contact OIE, and may issue an Interim Measure, if appropriate, to remain in place until OIE either confirms or modifies the Interim Measures.
        b. The parties affected by an Interim Measure will be notified about the imposition of an Interim Measure as soon as possible.
        c. When imposing Interim Measures, NMSU will strive to minimize any negative impact on the affected student's education.
        d. To address any hardship that may result from imposition of an Interim Measure, a person subject to an Interim Measure may request reconsideration and/or modification of its terms and conditions by submitting a written petition to the vice president of student success. The scope of the review of the petition is limited to any hardship created by the Interim Measure, and should specify the relief being sought (e.g. actions requested to mitigate the hardship). The petition and the resulting decision will not address the merits of the underlying SSCC conduct case.

E. **Termination of Interim Measure**: An Interim Measure remains in place until expiration of a period specified in the written Notice, or until modified by the office that instituted the measure if no termination date was indicated (based on either periodic monitoring by the issuing office), or upon the decision of the vice president for student success following a hardship review.

## Details

**Scope:** NMSU System

**Source:** ARP Administrative Rules and Procedures Chapter 5 | Student Life and Conduct

**Rule Administrator:** VP Student Success and Enrollment Management

**Last Updated:** 08/13/2019

## Related

**Cross-Reference:**
5.20 - SSCC Student Social Code of Conduct Overview
5.21 - SSCC Student Rights and Responsibilities
5.22 - SSCC Social Conduct Standards (Prohibited Conduct)
5.24 - SSCC Amnesty for Emergency Reporting
5.25 - SSCC Consequences for Violation
5.26 - SSCC Conduct Case Procedures

**Revision History:**
08/13/2019 Amendment approved by Chancellor
05/24/2019 Amendment updating and restructuring the Student Social Code of Conduct as ARP 5.20 – ARP 5.26
03/08/2019 Student Social Code of Conduct relocated from Student Handbook, pursuant to revised RPM 5.20 C. 1.
08/15/2015 Amended pursuant to Policy 3.101, Authorization of Student Social Code of Conduct (subsequently recompiled as RPM 5.20)

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 5.24 – SSCC Amnesty for Emergency Reporting

arp.nmsu.edu/5-24

## PART 1: PURPOSE

The purpose of this rule is to protect the health, safety and welfare of Students by empowering Student bystanders to seek emergency medical assistance in a potentially dangerous situation, and to report incidents of sexual misconduct or other violence, without fear of disciplinary action for their own alcohol or drug violations. This rule encourages Students to seek help or emergency medical assistance for individuals suffering from alcohol or drug induced medical emergencies and for those victimized by sexual misconduct or other violence. Grants of amnesty as provided by this rule support Students who act responsibly to care for the welfare of others.

## PART 2: REPORTING RESPONSIBILITIES

A. When a Student observes that a person's health or safety is in jeopardy or appears to be at risk from alcohol or drug consumption, the Student should immediately seek medical assistance by calling 911.
B. When a Student witnesses or is a victim of sexual misconduct or other violence, the witness or victim should immediately seek assistance by calling 911. In cases of rape or other injury, a victim should also obtain immediate medical attention from a qualified provider.

## PART 3: SITUATIONS JUSTIFYING GRANT OF AMNESTY

To encourage the reporting of potential medical emergencies resulting from alcohol or drug use, as well as the reporting of sexual misconduct or other violence that often occurs in connection with alcohol or drug use, NMSU grants

amnesty from alcohol or drug related student disciplinary Charges to the following individuals:

A. Students who seek emergency medical assistance for a potential drug or alcohol medical emergency in accordance with Part 2, provided that the reporting Student stays with the person at risk until medical assistance arrives and cooperates with all emergency personnel;
B. Students who are witnesses or victims of sexual misconduct or other violence, and report such conduct in accordance with Part 2 above; and
C. Students receiving assistance based on the emergency reporting.

## PART 4: AMNESTY CONDITIONED UPON COMPLIANCE

A grant of amnesty is conditional; the Student must participate in a subsequent educational program deemed appropriate for the circumstances by the dean of students. In the event the Student fails to complete the educational requirements or other more extensive conditions imposed in the event of a second or subsequent grant of amnesty, such non-compliance will void the grant of amnesty, and subject the Student to action under the SSCC.

## PART 5: LIMITATIONS ON GRANT OF AMNESTY

Any amnesty granted pursuant to this rule applies only to Student Social Code of Conduct prohibitions on the use of drugs and alcohol. This rule does not preclude nor prevent other appropriate police or legal action. Additionally, the amnesty protection is not applicable to violations of other NMSU policies that warrant disciplinary action (e.g. possession of false ID, disruptive or combative behavior, sexual harassment and sexual misconduct, sale of controlled substance, or property damage).

## Details

**Scope:** NMSU System

**Source:** ARP Administrative Rules and Procedures Chapter 5 | Student Life and Conduct

**Rule Administrator:** VP Student Success and Enrollment Management

**Last Updated:** 08/13/2019

## Related

**Cross-Reference:**
5.20 - SSCC Student Social Code of Conduct Overview
5.21 - SSCC Student Rights and Responsibilities
5.22 - SSCC Social Conduct Standards (Prohibited Conduct)
5.23 - SSCC Interim Measures
5.25 - SSCC Consequences for Violation
5.26 - SSCC Conduct Case Procedures

**Revision History:**
08/13/2019 Amendment approved by Chancellor
05/24/2019 Amendment updating and restructuring the Student Social Code of Conduct as ARP 5.20 – ARP 5.26
03/08/2019 Student Social Code of Conduct relocated from Student Handbook, pursuant to revised RPM 5.20 C. 1.
08/15/2015 Amended pursuant to Policy 3.101, Authorization of Student Social Code of Conduct (subsequently recompiled as RPM 5.20)

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 5.25 – SSCC Consequences for Violation

arp.nmsu.edu/5-25

## PART 1: STUDENT CONDUCT RECORD

A. **No "Conduct Record"**: Students found "not responsible" after a hearing or after appeal, or whose SSCC conduct case is otherwise dismissed by the Case Administrator, do not have an official "SSCC conduct record". The documentation associated with the SSCC conduct case is maintained by the Dean of Students or designee, in accordance with applicable state record retention laws and NMSU policy, but is not reportable as a conduct record.
B. **"Conduct Record"**: If a Student is found responsible and sanctioned in an SSCC conduct proceeding, this finding results in an official "conduct record" that is accurately disclosed to third parties when disclosure is legally authorized by the subject Student or when required by law.
C. **Preservation of SSCC Conduct Case Record**: The documentation from each step in the SSCC conduct process (investigation, Educational Conference, hearing and appeal) is maintained in a case file by the Dean of Students or community college designee. The case file includes copies of correspondence, Notices, and segregated sections for hearing and appeal records, if any. Attorney-client privileged material is not part of the SSCC case file.
D. **Transcript Notation for Certain Sanctions**: A Sanction of suspension or dismissal, or the withholding or revocation of a degree or diploma, is permanently noted on the Student's official transcript or, in the case of a Student Organization, on its official charter or other appropriate recognition of status documentation.

## PART 2: TYPES OF SANCTIONS

A Respondent who is found to have violated the SSCC may receive one or more of the following Sanctions:

A. **Documented Verbal Warning**: A verbal warning is used for less serious

and first time SSCC violations and for other infractions conducive to being addressed through progressive discipline. This Sanction informally notifies the Respondent that a change in behavior is necessary to avoid additional or more serious Charges and/or Sanctions. Despite the designation as a "verbal warning", the Respondent is asked to acknowledge receipt of the warning in writing.

B. **Written Warning**: A written warning is used for minor and moderate level infractions and conduct conducive to being addressed through progressive discipline. This Sanction conveys, by formal written memo, that the Respondent's conduct did not meet NMSU standards and a change in behavior is necessary to avoid additional or more serious Charges and/or Sanctions.
C. **Disciplinary Probation**: Disciplinary probation is a status assigned for a defined period of time for an infraction that does not create an ongoing threat or risk of harm to the NMSU Community. Individual Respondents may remain enrolled or re-enroll while on this status.
D. **Restricted NMSU Privileges or Activities**: Under this Sanction, a Respondent is restricted from specified NMSU privileges or participation in NMSU activities for either a certain time period or indefinitely. Examples include restrictions on access to equipment, athletic functions, student union, libraries, parking lots, NMSU computer centers and/or residence halls. Additionally, restrictions may be placed on the Respondent's activities such as the right to participate in activities or Student Organizations, to represent NMSU on athletic teams or in other leadership positions.
E. **Restitution**: The Respondent is required to make payment of a sum to compensate for damages caused, in whole or in part, by the Respondent's violation of the SSCC. Damages must be supported by evidence of cost and value and be reasonably and directly related to the harm or damage (e.g. personal injury or damage to property). An award of restitution is to be paid prior to further enrollment in classes and may be added as a balance due on the Respondent's student account maintained by NMSU Accounts Receivable.
F. **Service to NMSU**: The Respondent is required to complete a specified number of hours of service at an NMSU campus, or in furtherance of NMSU interests.
G. **Educational and Self Awareness Programs**: The Respondent is required to complete a specific educational assignment or to attend and cooperatively participate in a program or session related to the violation committed. Examples include: researching and preparing and/or presenting a report, participating in an alcohol or drug assessment, or attending a seminar or webinar.

H. **Counseling Session**: A Respondent is required to report for and participate in a designated number of sessions with an NMSU counselor. The counselor will not divulge confidential content of counseling sessions without a voluntary release, but may report whether Student attended the session and cooperatively participated.

I. **Change or Revocation of Housing Assignment**: The Respondent is required to (a.) relocate to a new NMSU Housing assignment; (b.) leave NMSU Housing for a specified period of time; or (c.) leave NMSU Housing permanently.

J. **No Contact Directive**: Prohibits a Respondent and other involved individuals from having any contact, direct or indirect, with one or more designated persons or groups through any means, including personal contact, email, social media, telephonic (voice and messaging), electronic or third parties. No contact directives are issued in writing, and may be issued as an Interim Measure or a Sanction.

K. **Deferred Suspension**: A deferred suspension may be appropriate when, but for mitigating circumstances, the misconduct would have resulted in a suspension for a defined period of time. A deferred suspension should indicate the time period that the suspension would have been for, and the deferment period should correspond to the same time period. A deferred suspension is granted subject to specified conditions. If during the period of the deferred suspension, the Respondent fails to honor the conditions set, or is found to have committed another violation of NMSU policy, the suspension previously deferred is effectuated in accordance with "Suspension" below.

L. **Suspension**: The Respondent's enrollment is suspended for a specified period of time, not to exceed one calendar year from the date of Notice. If the basis for the suspension is deemed to present an unreasonable risk of harm to the university community or property, the Respondent may be prohibited from access to NMSU Property. A Respondent receiving the Sanction of suspension must comply with all applicable conditions and Sanctions prior to re-admission or reapplication for recognition as a Student Organization. If the Respondent is a Student Organization, the recognition of its charter is revoked during the period of the suspension and neither the organization nor its members is permitted to receive the benefits associated with a chartered Student Organization.

M. **Dismissal**: The Respondent is dismissed from all courses, and denied re-admission for a period of not less than one calendar year. If the basis for the dismissal is deemed to present an unreasonable risk of harm to the university community or property, the Respondent may be prohibited from access to NMSU Property. A Respondent receiving the Sanction of dismissal

must comply with all applicable conditions and Sanctions prior to re-admission as a Student, or reapplication for recognition as a chartered Student Organization. If the Respondent is a Student Organization, the recognition of its charter is revoked during the period of the dismissal and neither the organization nor its members are permitted to receive the benefits associated with a chartered Student Organization.

N. **Withholding or Revocation of Academic Award**: Upon approval from the campus president, NMSU may temporarily or permanently withhold issuance of a degree, diploma, certificate or official transcript, or deny further registration or, with approval of the Board of Regents, a degree or diploma already conferred may be revoked.

## PART 3: GUIDELINES FOR IMPOSING SANCTIONS

The level of sanction is determined based on several factors. Sanctions will be commensurate with the nature of the violation and, for first and less serious violations, progressive discipline may be used as an educational tool designed to encourage behavioral change. In cases involving Title IX or other discriminatory misconduct, the Sanctions must effectively stop the offensive or harmful misconduct, prevent its re-occurrence and address its effects.

A. **Level of Sanction**: The imposition of disciplinary Sanctions will be administered fairly and consistently, with consideration given to the following factors:
    1. Prior Conduct Record: Whether the Respondent has received warning or other disciplinary Sanction for prior SSCC violations.
    2. Seriousness of Conduct: The nature of the infraction and the extent of personal injury or property, financial or reputational damage caused, or the degree to which the misconduct created an unreasonable risk of serious injury or damage (whether or not injury or damage actually resulted).
    3. Aggravating Factors: Aggravating factors may include pre-meditation, evidence of mal-intent or conscious disregard for the rights and welfare of others.
    4. Mitigating Factors: Mitigating factors may include the absence of aggravating factors, youth, genuine remorse and acceptance of responsibility, mental incompetency or other medical conditions.
B. **Duration of Sanction**: If the Sanction imposed is probation, loss or restriction of NMSU privileges, suspension or dismissal, then the time period will clearly be stated, and to the extent feasible, will correspond to the NMSU academic schedule (e.g. semesters, compressed course

schedule).

## PART 4: PETITION FOR RELIEF FROM INDEFINITE SANCTION

If a Sanction is imposed without end date, then after a minimum of one year from the imposition of the Sanction, the Respondent may petition the dean of students or community college designee to have the Sanction lifted in accordance with the process below.

A. Petition Requirements: The petition should explain why NMSU may expect the Respondent's conduct to comport with the SSCC in the future, including any actions Respondent has taken since the events giving rise to the Sanction that demonstrate a heightened level of personal responsibility.
B. Other Factors Considered: Other factors to be considered include:
    1. the nature of the violation, including the severity of personal injury, property or other damage caused and the level of risk created by Respondent's actions or inactions;
    2. the academic accomplishments and status of the Respondent;
    3. the best interest of the involved parties and of the institution of NMSU.
C. Review of Denial of Petition: If the petition is denied, the Respondent may seek a final review from the vice president of student success who will review the same factors before rendering a final decision.
D. Time Limitation on Future Petitions: If denied by the vice president of student success, the Respondent may not petition again for another two years.

## Details

**Scope:** NMSU System

**Source:** ARP Administrative Rules and Procedures Chapter 5 | Student Life and Conduct

**Rule Administrator:** VP Student Success and Enrollment Management

**Last Updated:** 08/13/2019

## Related

**Cross-Reference:**

5.20 - SSCC Student Social Code of Conduct Overview
5.21 - SSCC Student Rights and Responsibilities
5.22 - SSCC Social Conduct Standards (Prohibited Conduct)
5.23 - SSCC Interim Measures
5.24 - SSCC Amnesty for Emergency Reporting
5.26 - SSCC Conduct Case Procedures

**Revision History:**

08/13/2019 Amendment approved by Chancellor
05/24/2019 Amendment updating and restructuring the Student Social Code of Conduct as ARP 5.20 – ARP 5.26
03/08/2019 Student Social Code of Conduct relocated from Student Handbook, pursuant to revised RPM 5.20 C. 1.
08/15/2015 Amended pursuant to Policy 3.101, Authorization of Student Social Code of Conduct (subsequently recompiled as RPM 5.20)

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 5.26 – SSCC Conduct Case Procedures

arp.nmsu.edu/5-26

## PART 1: GENERAL GUIDANCE

A. **Confidentiality and Privacy**: Recognizing that certain information is necessarily divulged in the conduct of an investigation and hearing to provide due process, and further, than some laws require disclosure of select information; confidentiality and privacy will be maintained to the extent legally possible during the processing of a SSCC case. All meetings, Educational Conferences, hearings and appeals are closed to protect the privacy of students.

B. **Discrimination/Title IX Cases**: When any form of prohibited discrimination is alleged in violation of ARP 3.25, including Title IX violations such as sexual harassment, stalking, intimate partner violence or other sexual misconduct (hereinafter "3.25 cases"), the role of the Dean of Students is to:
   1. refer any reports or complaints received directly to the Office of Institutional Equity (OIE);
   2. coordinate regarding Interim Measures;
   3. assist as may be needed to further the interests of the investigation;
   4. receive OIE's Reports of Inquiry and continue with the SSCC process;
   5. issue Sanctions as warranted by OIE's findings, adequate to stop the conduct, prevent its recurrence and remedy its effects; and
   6. convey the sanctions in a Title IX case to the parties and inform of the right to appeal the Sanction (See PART 8)
   7. communicate the sanction in all 3.25 cases to OIE once the case has been concluded.

C. **Due Process**: Students who are the subject of an SSCC conduct case will be given notice of the facts and evidence relating to the allegation, and an opportunity to provide a statement and other evidence to refute the allegations. In 3.25 cases, due process is provided by OIE in its investigation and determination processes governed by ARP 3.25.

D. **Extensions of Time**: Any involved party or NMSU official may request to extend a time limitation provided in the SSCC. All reasonable requests will

be granted. Requests for extensions must be directed to the individual in charge of making decisions at the specific stage of the proceeding (Case Administrator, Hearing Officer, or Appeal Officer) or, if the decision-maker is the one seeking an extension, extensions may be granted by that individual's immediate supervisor.

E. **Student Acceptance of Responsibility**: At any time prior to a determination by the Hearing Officer, a Student may elect to accept responsibility for the alleged misconduct and accept the proposed Sanction. The decision to accept responsibility must be communicated in writing to the Dean of Students or appropriate community college designee.

F. **Case Dismissal**: If the Case Administrator determines at any stage, that the facts do not support an SSCC violation, the case may be closed, with notice to the involved parties as may be appropriate. However, in 3.25 cases, OIE has independent authority to dismiss cases which it determines do not allege a 3.25 violation or are not supported by a preponderance of the evidence. Dismissed 3.25 cases involving non-discriminatory misconduct which may violate the SSCC will be referred to the Dean of Students for further action.

## PART 2: CASE INITIATION

A. **Reporting Misconduct by Students/Student Organizations**:
   1. Any person, including Students, faculty and members of the NMSU Community may report suspected or observed misconduct by Students and Student Organizations to the Dean of Students or appropriate community college vice president for student services.
   2. The NMSU Police Department forwards its reports involving student conduct to the Dean of Students for review and potential action under the SSCC.
   3. Any report involving discrimination on the basis of any protected class (See **ARP 3.25-Discrimination, Harassment and Sexual Misconduct on Campus**), including sexual assault, harassment, stalking, dating violence or other sexual misconduct, must be referred to the Office of Institutional Equity.

B. **Appointment of Case Administrator:** Upon receipt of a report of misconduct that is within the authority of the Dean of Students (See **ARP 5.20**, Part 4), the dean of students appoints an NMSU employee to serve as the Case Administrator, taking into consideration the campus where the alleged incident occurred and where the Respondent is enrolled. No formal

appointment documentation is necessary; standing appointments are permissible.

C. **Preliminary Review and Investigative Referral**: The Case Administrator reviews the reported misconduct and opens a SSCC case if it appears there is a violation of the SSCC. If the allegations are not referred to another department in accordance with the following, the Case Administrator facilitates the SSCC process up to the point that a hearing might be held.
    1. If the alleged misconduct is any form of discrimination prohibited by ARP 3.25, which includes Title IX violations such as sexual harassment, stalking, intimate partner violence or other sexual misconduct, the Dean of Students will immediately refer the case to OIE for investigation and factual findings pursuant to that policy.
    2. When an incident results in alleged violations of both ARP 3.25 (discrimination including Title IX) and other non-discriminatory infractions, upon referral and on a case by case basis, the Dean of Students and OIE will coordinate to ensure the integrity of each office's need to investigate and to take action under their respective policies and procedures.
    3. If the alleged misconduct occurred in NMSU residential housing (Housing), the Dean of Students may refer the case to Housing for investigation and factual findings. Alternatively, at the discretion of the Dean of Students, the case may be investigated jointly with, or independently from Housing, as it deems appropriate based on the nature of the alleged incident.

## PART 3: EDUCATIONAL CONFERENCE

Once a determination is made that the facts alleged would support a finding of an SSCC violation or the relevant office investigating the case has issued findings which support a violation of the SSCC, the case proceeds to the Educational Conference. At the beginning of the Educational Conference, the Case Administrator informs the Student that any facts volunteered by the Student may be used as evidence in support of action under the SSCC in any later hearing or appeal.

A. **Purpose of Educational Conference:** The Educational Conference serves each of these purposes:
    1. Notice of Misconduct Allegations: The Case Administrator informs the Student of the facts alleged or the findings issued by OIE in a 3.25 case, the applicable section of the SSCC and/or other applicable university policy and the potential range of Sanctions, should the

Student accept responsibility or be found responsible.

2. Inform about SSCC Process: The Case Administrator explains the SSCC process to the Students, and answers any questions from the Student.
3. Fact Finding: If after being informed that any facts the student shares may be used in support of disciplinary action under the SSCC, the Student wishes to discuss the case, the Case Administrator will document the information received, including exculpatory facts, and accept any records that the Student may provide in response to the allegations.
4. Facilitate Resolution: Through full and informed discussion, the Case Administrator assists the Student in deciding whether or not to accept responsibility for the alleged misconduct or, in the alternative, to allow the SSCC conduct process to continue.

B. **Timing and Notice of Educational Conference:** A Student accused of misconduct is notified and afforded an Educational Conference within a reasonable time after allegations are made or sufficient facts are known to the Dean of Students to appoint a Case Administrator to initiate a case. Generally, unless there are circumstances reasonably justifying a longer time period, this will occur within sixty (60) Days from the date the Dean of Students receives the report or complaint of alleged misconduct or Report of Inquiry from OIE in a 3.25 case.
    1. A minimum of five (5) Days' Notice will be given to the Student prior to an Educational Conference.
    2. The Notice includes a link to the SSCC (ARP 5.20 through ARP 5.26), and informs the Student of the following:
        a. the date, time and location for the conference,
        b. the fact that the Student is the subject of an SSCC conduct case,
        c. the specific factual misconduct allegation(s), and
        d. the potential Charge(s).
        e. the right to review, prior to the Educational Conference, the evidence collected as of that date relating to the alleged misconduct.
    3. Where a Student is properly notified of an Educational Conference and fails to either (1) request an alternate date/time or (2) appear and participate at the Educational Conference, the Case Administrator will document the failure to appear and proceed in accordance with the SSCC.
C. **Outcome of Educational Conference:** Except in 3.25 cases investigated by OIE, the Case Administrator documents the facts asserted and evidence submitted by the Respondent, and the outcome of the Educational

Conference. The possible outcomes include:

1. Respondent Rebuts/Case Dismissed: The Student provides persuasive information refuting the alleged misconduct and the Case Administrator determines that there is insufficient evidence to support a finding that the Student violated the SSCC, and the SSCC case is dismissed. This outcome does not apply in 3.25 cases.
2. Respondent Accepts Responsibility/Case Concluded: The Student, after being fully informed of the allegations and the potential Sanctions, accepts responsibility for the findings as determined by OIE or for the non-3.25 alleged misconduct and commits to fulfill the proposed Sanction. The Respondent completes and signs a form provided by the Dean of Students indicating acceptance of the proposed Charge and corresponding Sanction discussed in the conference, thereby concluding the conduct proceeding under this rule, with no right to appeal.
3. Case Proceeds: When Respondent neither accepts OIE's findings in a 3.25 case, nor accepts responsibility or provides exculpatory information in a non-3.25 case, the case proceeds to the next phase in the student conduct process. In a 3.25 case, the next phase is a sanctioning conference. In a non-3.25 case, the next phase involves issuance of a formal charge if supported by the evidence.

## PART 4: ASSESSMENT OF FACTS; ISSUANCE OF FORMAL CHARGE

A. **Evidence Collection:** If the matter is not resolved in the Educational Conference, the Case Administrator obtains reports from any other offices that investigated the allegations (e.g. OIE, Housing, NMSU Police), and if the matter was not formally investigated by another unit, conducts any necessary additional investigation to ensure a full understanding of the incident or event.

B. **Assessment of Facts:**
   1. Once the relevant evidence (documents and witness statements) is available and complete, the Case Administrator assesses whether or not a violation of the SSCC is supported by at least a Preponderance of the Evidence.
   2. If the evidence does not support the alleged violation, no formal Charge will be issued.
   3. If the evidence supports the alleged violation by at least a preponderance of the evidence, a formal Charge will be issued.

C. **Issuance of Formal Charge:** The Case Administrator sends a formal Charge describing the alleged misconduct, the section of the SSCC violated, and the range of Sanctions for said violations. The formal Charge may be combined with the Notice of the Hearing. The formal Charge must inform the Respondent of the right to schedule a time to review, before the hearing, the list of witnesses and any evidence that will be presented at the hearing.

## PART 5: PRE-HEARING PROCEDURES

Upon receipt of a Respondent's written request for a hearing on a formal Charge, the following pre-hearing procedures apply:

A. **Designation of Hearing Officer**: The dean of students designates the Hearing Officer for the SSCC conduct case, provides the Hearing Officer with a copy of Charge determination, and gives Notice of the appointment to the Respondent and any Complainant. The appointment is subject to the following:
    1. A Hearing Officer may recuse themselves if they believe there is a conflict of interest sufficient to affect their ability to hear the case fairly and impartially. For example, a conflict of interest may result from a personal relationship with, or knowledge of the case relating to, the Complainant, Respondent or a witness.
    2. A Complainant or Respondent may request a different Hearing Officer, based on facts indicating the potential for a conflict of interest or potential bias, by submitting a request in writing to the dean of students, or if the conflict involves the dean of students, Student Life's vice president for student success. An alternate Hearing Officer will be appointed when the facts are found to create a reasonable concern for potential bias.
B. **Role of Case Administrator**: At the hearing, the Case Administrator facilitates the presentation of evidence relating to the alleged misconduct to the Hearing Officer, including coordination of the presentation of evidence gathered by other departments (e.g. Housing, Office of Institutional Equity).
C. **Duties of Hearing Officer**: Consistent with the SSCC, the Hearing Officer's responsibilities include: resolving pre-hearing procedural issues; convening and conducting the fact finding hearing; issuing a written decision based upon the Preponderance of the Evidence standard, informing the Respondent and any Complainant of the right to appeal; and organizing and preserving the hearing record. The Hearing Officer makes

arrangements to create an audio recording of the hearing which becomes a part of the hearing record. The Hearing Officer may also arrange for a Notary Public to place the witnesses under oath during the hearing.

D. **Resolution of Pre-Hearing Procedural Issues**: The designated Hearing Officer determines if the case is ready to proceed at the scheduled date and time. The Hearing Officer resolves pre-hearing issues and concerns raised by a party, and provides the Case Administrator and the Respondent the opportunity to provide input. Examples of issues that commonly are raised that should be resolved before the hearing include:
    1. Confirmation that all potential conflicts of interest have been disclosed and addressed;
    2. Requests for reasonable accommodations based on disability;
    3. Requests for time extensions;
    4. Requests for procedural modifications in the interest of fairness or safety;
    5. The Respondent has been provided the opportunity to review the list of witnesses and the evidence that will be presented at the hearing;
    6. Resolution of any issues relating to witness availability: Case Administrators and Respondents are responsible to arrange for their respective witnesses to attend the hearing. If the witness is a Student or an NMSU employee and refuses to attend the hearing voluntarily, upon written request from the Case Administrator or the Respondent, the dean of students or designee will issue an *NMSU Directive to Appear*, to facilitate the witness' participation in person or by phone.

## PART 6: HEARING PROCEDURES

A. **Hearing Purpose:** The hearing provides the opportunity for a neutral factfinder to evaluate the available evidence as presented by the Respondent, any Complainant who chooses to participate, and the Case Administrator (or other NMSU official), to determine whether or not the SSCC violation(s) alleged in the Charge are supported by a Preponderance of the Evidence, and, where a violation is found, to review the Sanctions imposed by the Case Administrator.

B. **Notice of Hearing:** Unless a shorter time is consented to by the parties, a minimum of ten (10) Days' Notice of the hearing date, time and location must be given to the Respondent, any Complainant, and to the Case Administrator.

C. **Witnesses**: The following procedures will apply when witnesses are called

by a party to the SSCC conduct hearing:

1. Questioning of Parties: In order to preserve the educational atmosphere and to avoid creation of an adversarial proceeding, questions for witnesses are submitted to and asked through the Hearing Officer.
2. Obligation to Testify: Witnesses who are NMSU Students or employees must attend a hearing when directed *(NMSU Directive to Appear)* by the Dean of Students. Failure to attend may result in a separate employee or student disciplinary action for the uncooperative individual.
3. Testimonial Evidence: The Hearing Officer may require witnesses to take an oath to tell the truth, administered by a Notary Public. The Hearing Officer may exclude the use of written witness statements if the lack of an opportunity to cross examine the witness in front of the Hearing Officer is deemed prejudicial. If a necessary witness is unavailable or cannot reasonably appear, and the Hearing Officer determines that the written or recorded statement regarding the events pertaining to the issue are more probative than prejudicial, then such written statements may be allowed. Upon request, the Hearing Officer will continue the hearing to allow a party to question the witness providing written or recorded testimony.
4. Exclusion of Witness from Proceeding: The Respondent and Complainant, if any, are entitled to attend the hearing during all presentation of evidence. Other witnesses are required to wait outside the hearing room until they are called to testify and are required to leave the hearing room once dismissed by the Hearing Officer.

D. **Conduct of Hearing**: The Hearing Officer convenes the hearing at the designated date and time, and ensures that the proceeding is audio recorded, including the resolution of any pre-hearing issues. Before the presentation of the case commences, the Hearing Officer provides the parties with an overview of the hearing process to the parties.

1. Resolution of Pre-Hearing Issues: The Hearing Officer asks parties if all pre-hearing issues have been resolved. If they have not been, the Hearing Officer addresses these issues first. If resolution of a prehearing issue will substantially impact the hearing process or outcome, the hearing should be re-set to another date and time while the parties are still present.
2. Opening Statements: The Hearing Officer provides each party an equal opportunity to present a brief opening statement to describe their position and the evidence they will present that supports their

position relative to the Charge or the proposed Sanction. Opening statements are not required, may be limited in time by the Hearing Officer, or may be waived the parties altogether.

3. Evidence in Support of Determination: The Hearing Officer calls first on Case Administrator, or the alternate NMSU official, to present evidence and call witnesses in support of the determination on the Charge and the imposed Sanction. Respondent is given the opportunity to submit questions related to the evidence or witnesses presented by the Case Administrator, to be asked through the Hearing Officer.
4. Rebuttal: The Hearing Officer calls on Respondent to present evidence including personal testimony and the testimony of witnesses to rebut the Charge, evidence presented by Case Administrator, or proposed Sanction. The Case Administrator is given the opportunity to submit questions related to the evidence or witnesses presented by the Respondent, to be asked through the Hearing Officer.
5. Hearing Officer Questioning: The Hearing Officer may ask any question of any party or witness relating to the Charge, the evidence, or the proposed Sanction.
6. Evidentiary Issues: The hearing is not a legal proceeding and the rules of evidence used by courts do not apply to SSCC hearings. The Hearing Officer has discretion to make decisions about the relevance or admissibility of evidence, however, the exclusion of evidence should be rare and only to address possible prejudice or improper conduct by a party. If evidence is excluded, a party may summarize on the record the anticipated testimony or proffered evidence and its relevance to the case.
7. Closing Statements: The Hearing Officer provides each party an equal opportunity to present a closing statement to summarize or comment on the evidence presented and how it supports their position relative to the Charge and the proposed Sanction. Closing Statements are not required, may be limited in time by the Hearing Officer, or may be waived the parties altogether.

E. **Decision by Hearing Officer:** Within five (5) Days from the date the hearing was concluded, the Hearing Officer will issue the written decision to the Respondent with factual findings and imposing a sanction, if appropriate. The Hearing Officer decision will comport with the following:
    1. Findings of Fact. The decision memo or letter must clearly identify the Hearing Officer's findings of fact in support of the decision.
    2. Decision to Dismiss. If the Hearing Officer does not find the

Respondent responsible, the decision must state that the Charge is dismissed, and no conduct record results.

3. Sanction Review. If the Hearing Officer finds the Respondent responsible, the Hearing Officer will also review and impose appropriate Sanction(s), taking into consideration any Sanction previously proposed or imposed, the evidence presented by the Respondent, and the factors listed in ARP 5.21 Part 3.
4. Appeal Rights: The Hearing Officer's decision must inform the Respondent and the Complainant, if any, of their right to appeal the decision as provided below.
5. Time Deadlines: If the Hearing Officer needs more than time to issue the decision, a time extension may be requested. (See PART 1 above).

F. **Maintenance of Hearing Record**: The Hearing Officer organizes and preserves the record of the fact finding hearing, including pre-hearing correspondence and notices, the audio recording, and exhibits or other evidence, labelled by the party who introduced it. The hearing record is transferred to the Dean of Students and is maintained as required by the state's record retention laws and NMSU policy.

## PART 7: SANCTIONING CONFERENCE IN 3.25 CASES

In 3.25 cases, in lieu of the hearing process described above in PART 6, once the Office of Institutional Equity has issued findings and a determination in support of a violation of ARP 3.25, the case is referred to the dean of students for a sanctioning conference with a designated Hearing Officer.

A. **Purpose of Sanctioning Conference**: The focus of the sanctioning conference shall be the determination of an appropriate Sanction(s) for a violation of ARP 5.22 Sections F.(Discrimination), G. (Discriminatory Harassment) or W. (Sexual Misconduct).
B. **Notice of Sanctioning Conference**: Unless a shorter time is consented to by the parties, a minimum of ten (10) Days' notice of the sanctioning conference date, time and location will be provided to the Respondent.
C. **Conduct of Sanctioning Conference**: At the conference, the Hearing Officer, summarizes the information in the Report of Inquiry and facilitates a conversation with the Respondent to as to the circumstances of the case.
D. **Sanction Decision and Delivery**: The Hearing Officer will take into consideration information shared by the Report of Inquiry, information provided by the Respondent, nature of the incident, aggravating or mitigating circumstances, prior disciplinary history, similar cases and Sanctions imposed, educational and developmental impact for the student,

and factors listed in ARP 5.21.

1. The Sanction decision will be delivered to all parties (respondent and complainant) simultaneously, meaning without substantial delay between the notifications to each.
2. Notification will be made in writing and may be delivered by one or more of the following methods: in person by the Haring Officer (or designee); mailed to the local or permanent address of the student as indicated in NMSU records; or emailed to the student's NMSU issued email account. Once mailed, emailed and/or received in-person, such notice will be presumptively delivered.

E. **Appeal Rights**: The Hearing Officer's decision must inform the Respondent and the Complainant of their right to appeal the Sanction decision as provided below (Part 8).

## PART 8: APPEAL PROCEDURES

A. **Notice of Appeal; Time Limit**: A Respondent or a Complainant may appeal the Hearing Officer's decision by sending a Notice of Appeal in writing to the dean of students, within five (5) Days from receipt of the Hearing Officer's determination in either a PART 6 fact finding hearing or a PART 7 sanctioning conference. The dean of students submits the Notice of Appeal to the NMSU official designated to serve as the Appeal Officer, and ensures that each party receives a copy of the Notice of Appeal.

B. **Grounds for Appeal/Standard of Review:** The purpose of the appeal process is to provide a limited, final review based on the hearing record, to determine if there was a substantial miscarriage of justice in the resolution of the case. To avoid summary dismissal, the appealing party must assert at least one of the following grounds for appeal, and establish that, but for the asserted grounds, a different outcome would have resulted.

1. Procedural error: Significant procedural error occurred in the processing of the case that resulted in a substantial likelihood that the outcome was affected.
2. Conflict of Interest or Bias: Objective facts demonstrate that a decision-maker was biased or had a conflict of interest of such significance that a reasonable person would not believe that the decision maker could be objective in making the decisions regarding the case.
3. Arbitrary or Capricious: The record does not reveal evidence from which a reasonable person could find that the Student engaged in the alleged misconduct by a Preponderance of the Evidence; accordingly,

the decision appears to be arbitrary or capricious.

4. New Evidence: New significant evidence was discovered that was not reasonably available or discoverable at the time of the hearing, which presents a substantial likelihood that it would have affected the decision.
5. Nature/Level of Sanction: The level or nature of the Sanction imposed is not appropriate for the level or nature of the violation the Respondent is found responsible for.

C. **Opportunity for Non-Appealing Party to Respond**: The non-appealing party may, but is not required to, submit a responsive document to the Appeal Officer providing their position on any issue raised in the Notice of Appeal within ten (10) Days from their receipt of the copy of the Notice of Appeal. The Appeal Officer considers any response from a non-appealing party before deciding whether to accept the appeal for the record review.

D. **Summary Dismissal:** The Appeal Officer determines if the Notice of Appeal was timely submitted, and whether the Notice sufficiently states appropriate grounds for review of the hearing decision. If the Notice of Appeal is not timely or does not provide any description of how one of the required grounds for appeal applies to their SSCC conduct case, the appeal is summarily dismissed.

E. **Appeal Review:** If the appeal is accepted for a record review, the following procedures will apply:

1. The Appeal Officer notifies the Dean of Students, the Respondent and the Complainant, if any, that the appeal is accepted for review.
2. The Dean of Students ensures that the hearing record is transmitted to the Appeal Officer within three (3) days of receiving the notification.
3. The Appeal Officer reviews the hearing record, including the evidence submitted by the parties, any relevant policies or law, and the arguments raised in the Notice of Appeal and any response submitted by the non-appealing party.
4. Within twenty (20) Days from the date of receipt of the SSCC hearing record, the Appeal Officer issues a final appeal decision based upon evidence in the record. The decision may uphold, modify or reverse the decision of the Hearing Officer, or in extraordinary circumstances, if necessary to ensure a just and impartial resolution, may remand the matter for a new hearing. The decision of the Appeal Officer is final.
5. The Appeal Officer provides Notice of the decision to the Respondent, the Complainant (if any) and the Dean of Students. The Appeal Officer assembles the appeal record and transfers both the hearing record and the appeal record to the Dean of Students for record retention

purposes.

6. The Dean of Students is responsible for taking necessary steps to implement the decision of the Appeal Officer.

## Details

**Scope:** NMSU System

**Source:** ARP Administrative Rules and Procedures Chapter 5 | Student Life and Conduct

**Rule Administrator:** VP Student Success and Enrollment Management

**Last Updated:** 08/13/2019

## Related

**Cross-Reference:**
5.20 - SSCC Student Social Code of Conduct Overview

5.21 - SSCC Student Rights and Responsibilities

5.22 - SSCC Social Conduct Standards (Prohibited Conduct)

5.23 - SSCC Interim Measures

5.24 - SSCC Amnesty for Emergency Reporting

5.25 - SSCC Consequences for Violation

**Revision History:**
08/13/2019 Amendment approved by Chancellor
05/24/2019 Amendment updating and restructuring the Student Social Code of Conduct as ARP 5.20 – ARP 5.26
03/08/2019 Student Social Code of Conduct relocated from Student Handbook, pursuant to revised RPM 5.20 C. 1.
08/15/2015 Amended pursuant to Policy 3.101, Authorization of Student Social Code of Conduct (subsequently recompiled as RPM 5.20)

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 5.40 – Access to Student Educational Records – FERPA Compliance

arp.nmsu.edu/5-40

## PART 1: INTRODUCTION AND PURPOSE

The Family Educational Rights and Privacy Act (FERPA), codified at 20 U.S.C. §1232 (g), protects the privacy of NMSU students' educational records, absent (1) the student giving proper written consent for disclosure or (2) circumstances which meet one of the exceptions in the law warranting disclosure without prior consent. This rule is intended to provide guidance to the various NMSU entities to assist them in protecting students' right of privacy consistent with FERPA and corresponding regulations published in 34 CFR Part 99.

FERPA also provides students and eligible parents the right to access and review educational records, as well as the right to seek amendment and/or supplement the student's Education Records in the event they are alleged to be inaccurate, misleading or otherwise in violation of the student's rights. This rule provides the rules and procedures by which NMSU System students and eligible parents may invoke these rights, and notice of how to file a complaint should they believe their right under FERPA are not being honored.

## PART 2: DEFINITIONS

A. **Directory Information**: Directory Information is defined for purposes of this rule as the student's name; NMSU Aggie ID number; class; college and major; dates of attendance; degree(s) earned; honors and awards received, including selection to the dean's or chancellor's list, honorary organization, or the GPA range for the selection; address; local or contact telephone number; NMSU electronic mail address; most recent previous educational institution attended; participation in officially recognized activities and sports; and the weight and height and age of members of athletic teams.

B. **Education Records**: Education Records are records that are maintained by NMSU in any form or format (e.g. paper, electronic, digital image, film, video, audio tape) which contain information directly related to a student and are personally identifiable to a student. Education Records do **not** include:
    1. Personal records of university employees that are in the sole possession of the maker (i.e. notes of conversations), are used as a personal memory aid, and are not accessible or revealed to any individual except to a successor in the position held;
    2. Records of the NMSU police department used for law enforcement purposes;
    3. Student medical and counseling records maintained and used only in connection with provision of medical treatment or counseling of the student and are made available only to the individuals providing the treatment;
    4. Employment records unrelated to the student's status as a student;
    5. Records created or received after an individual is no longer a student in attendance and that are not directly related to the individual's attendance as a student (i.e. alumni records); or
    6. Grades on peer-graded papers before they are collected and recorded by a faculty member.
C. **Legitimate Educational Interest**: In the context of this rule, refers to the work related and authorized need for access to an educational record (by a designated School Official) within the course and scope of the individual official's employment or contract.

D. **School Official**: School Official means:
    1. An employee, agent or officer of the university acting in the employee's official capacity;
    2. A person serving on university committees, boards, and/or councils, including an individual serving on a disciplinary or grievance committee;
    3. Another educational institution that requests records for a particular student who seeks or intends to enroll or where the student is already enrolled provided the disclosure is for purposes related to the student's enrollment or transfer; and
    4. A person or company with whom the university has contracted (e.g. internship and clinical facilities, attorney, auditor, or collection agent) but limited to only the specific student information needed to fulfill the contract. The contracting entity, as the agent for NMSU, is required to protect the student's educational records in compliance with FERPA's regulations on the control, maintenance, use and re-disclosure of the information provided to it.
E. **Student** means an individual who is or has been in attendance at NMSU. For the purposes of this rule, "attendance" begins on the first day of class for any type of course or program offered by NMSU. It also includes any period during which an individual is working under a NMSU work-study program.

## PART 3: PROCEDURES FOR INSPECTION OF STUDENT EDUCATIONAL RECORDS

A. The University Student Records Office has been designated by the university as the records custodian for student educational records. The University Student Records Office responds on behalf of the NMSU System to requests from students, eligible parents and others for access to and inspection of student Education Records. When the requested records are housed at other campuses or offices the institution, the University Student Records Office will coordinate with the other NMSU entities to provide or respond to the request.
B. To ensure that the University Student Records Office receives the request, students are encouraged to submit their requests to view their educational records in writing.
C. Inspection shall be permitted within 45 calendar days from the date of the written request.

D. If the student is not able to review the records at the university, the records will be mailed or emailed to the student.
E. Students may be charged a reasonable copying fee, unless the fee would prevent the student from obtaining the copy, in which case, there shall be no charge.
F. As provided by FERPA, students shall not be permitted to inspect the following records:
    1. Financial information submitted by their parents;
    2. Confidential letters and recommendations associated with admissions, employment or job placement, or honors to which they have waived their rights of inspection and review;
    3. Education Records containing information about other students, in which case the institution will permit access only to that part of the record which pertains to the inquiring student; or
    4. Confidential letters and recommendations placed in their files prior to January 1, 1975, providing those letters were collected under established policies of confidentiality and were used only for the purposes for which they were collected.

## PART 4: PROCEDURES TO AMEND OR SUPPLEMENT STUDENT EDUCATIONAL RECORDS

A. If a student or eligible parent believes that the educational record is inaccurate, misleading or otherwise in violation of the student's rights, they may request an amendment of the record. If the proposed amendment is denied, the student or eligible parent may request a hearing by submitting to the University Student Records Office a Request for Hearing to Amend or Supplement Educational Record.
B. The University Student Records Office will schedule a hearing within twenty business days from receipt of a request for hearing, absent extenuating circumstances.
C. The University Student Records Office will give the student or eligible parent five business days advance notice of the date, time and place in of the hearing.
D. The hearing officer will be a representative of the Office of the Provost, or other member of senior management who does not have a direct interest in the outcome of the hearing.
E. The student or eligible parent shall receive a fair hearing, meaning that they will be given the opportunity to present evidence relevant to the issues raised.

F. The student or eligible parent may, at their own expense, be assisted or represented by one or more individuals of the student or eligible parent's choice, including an attorney.
G. The hearing officer shall consider solely the evidence the evidence presented at the hearing, including any evidence which may be offered by university representatives, and deliver a written decision within fifteen business days from the date of the hearing. The written decision shall include a summary of the evidence and the reasons supporting the decision.

## PART 5: STUDENT CONSENT REQUIRED TO DISCLOSE EDUCATIONAL RECORDS

The general rule is that student consent is required before a student's educational records may be accessed or disclosed to a third party. This Part describes how a student may provide that consent; Part 6 addresses exceptions from this general rule.

A. NMSU officials, through the University Student Records Office, may disclose student educational records with the student's consent.
B. A student is deemed to have consented to disclosure of limited information, referred to as Directory Information, unless the student opts out of the university's Directory. (***See Part 6. A.***)
C. Additionally, a student may wish to allow third parties access to student educational records, for a variety of reasons. A form to facilitate documentation of the student's consent and waiver of privacy rights under FERPA is located at the mynmsu portal. Any signed FERPA consent, release or waiver will be honored by the University Student Records Office upon receipt and verification that it was signed by the student.

## PART 6: EXCEPTIONS TO REQUIREMENT FOR STUDENT CONSENT

FERPA permits the disclosure of educational records without the student's consent when certain exceptions apply. These exceptions are described here:

A. The university may release student educational records without the student's consent provided it is Directory Information *(**See Definitions, Part 2***), and the student has not opted out of the directory. To opt out of the Directory, students must notify the University Student Records Office in writing. A NON-RELEASE OF DIRECTORY INFORMATION form may be used to document the student's intent to opt out of the Directory. This form is available at the mynmsu portal and also at http://records.nmsu.edu/forms/. NMSU will not disclose Directory information without consent for students who have provided such written notice to the University Student Records Office.

B. The university may release student educational records without the student's consent to university officials who have a Legitimate Educational Interest (***See Definitions, Part 2***)to access the records. If releasing educational records to a university contractor, NMSU shall ensure:
    1. that the contractor performs an institutional service or function for which NMSU would otherwise use employees;
    2. that the contractor is under the direct control of NMSU with respect to the use and maintenance of Education Records; and
    3. that the contractor shall be subject to FERPA's use and re-disclosure requirements relating to personal identifiable information from student Education Records.

C. The university may also release student educational records without the student's consent, if one of the additional exceptions set forth in the FERPA regulations applies. (***See 34 C.F.R §§99.31***) Depending upon the exception, briefly described below, the university may be required to make a reasonable attempt to notify the student in advance or to notate in the student's educational record the details relating to a nonconsensual disclosure. *(**See Part 7 below***)
    1. To another university or school in which the student seeks or intends to enroll, provided the disclosure is for purposes related to the student's enrollment or transfer;
    2. In connection with financial aid for which the student has applied or which the student has received, as necessary and for certain purposes provided for in the Act;
    3. To parents of dependent students as defined in section 152 of the Internal Revenue Code of 1986;
    4. To protect the health and safety of any student or others in a health or safety emergency;
    5. To accreditation organizations or agencies;

6. To authorized representatives of the US Comptroller General or the US Attorney General, the US Secretary of Education, state and local educational authorities for audit or evaluation of federal or state supported educational programs, or for the enforcement of or compliance with federal legal requirements that relate to those programs;
7. To comply with a lawful judicial order or lawfully issued subpoena, *provided* that the university first makes a reasonable effort to notify the student or eligible parent of the order or subpoena, in advance of compliance, so that the student or parent as applicable may seek protective action, *unless pursuant to 34 C.F.R. 99.31(a)(9)(ii) (A)-(C), the subpoena orders* ***non****-disclosure of the existence or contents of the subpoena, or information furnished in response;*
8. To support legal action in court as may be relevant to the issues being litigated;
9. To organizations conducting studies for, or on behalf of, educational agencies or institution for the purpose of 1) developing, validating, or administering predictive tests; 2) administering student aid programs; or 3) improving instruction; provided the study is conducted pursuant to a written data sharing, use and destruction agreement as required by 34 C.F.R. §§ 99.31 (6) (iii) (C) (1)-(4);
10. Disclosure of events involving drugs or alcohol to parents of students under age of 21:
    a. Unless there are extenuating circumstances, the university will not generally notify parents or legal guardians of students under the age of 21 of a first time alcohol violation. Parents and guardians will be notified if the student is determined by the university to be a danger to himself or herself, to others, or to property.
    b. The university may notify parents and legal guardians of students under the age of 21 of all second and subsequent alcohol violations. For purposes of determining what constitutes a second or subsequent violation, multiple related violations during a single incident will be treated as one offense.
    c. The university may notify parents or legal guardians of students under the age of 21 of any drug violations.
11. To disclose the final result of a student judicial proceeding to the alleged victim in which the alleged perpetrator/student was charged with violating university policies or rules relating to a crime of violence or non-forcible sex offense;

12. To disclose the final result of a student judicial proceeding to a third party related to university charges filed associated with a crime of violence or non-forcible sex offense, if the student was found to be responsible for violating the university's rules or policies. Disclosure is limited to the name of the violator, the type of violation found to have occurred, and the sanction imposed by the university; and
13. To disclose information about sex offenders and other individuals required to register under section 170101 of the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. 14071, and the information was provided to the university under 42 U.S.C. 14071 and applicable federal guidelines.

## PART 7: REPORTING REQUIREMENTS FOR DISCLOSURES WITHOUT PRIOR CONSENT

A. FERPA require schools to record all requests for access to, and all disclosures of personal identifiable information (PII) from student educational records, EXCEPT FOR 1) disclosures to School Officials with Legitimate Educational Interest; 2) disclosures in response to certain judicial orders or lawfully issued subpoenas (***See Part 6. C. 7. above***); 3) disclosures of Directory Information for students who have not opted out of the directory; and 4) disclosures directly to the student or eligible parent.
B. NMSU shall maintain these records with the student's Education Records for as long as the student's records are maintained.
C. The recorded information shall include the parties who have requested or received PII from student educational records and their legitimate interests in requesting or obtaining the information.
D. Students and eligible parents have a right to inspect and review the record of disclosures. *See* 34 CFR § 99.32 for the full list of recordation requirements.

## PART 8: PREVENTION OF FERPA PROTECTED DATA BREACHES; PROTOCOLS IN EVENT OF BREACH

A. **Data Security**: NMSU shall establish and maintain information security policies and procedures to protect the privacy of student educational data, including data located on personally owned equipment which connects to the NMSA enterprise and data moved to personal devices. NMSU will refer to the recommended practices by the Privacy Technical Assistance Center (PTAC) from The U.S. Department of Education for guidance in its administration of FERPA and corresponding regulations.
B. **Training**: The University Student Records Office, in coordination with the NMSU IT Compliance and Privacy Office, will ensure that NMSU administration, faculty, staff and contractors as appropriate, receive FERPA and data security training at least biennially in order to raise awareness of this rule and the university's obligation to meet the requirements of FERPA and its regulations.
C. **Data Breach or Compromise**
    1. NMSU employees and contractors who access student educational records and data in the course and scope of their employment shall report any suspected, minor, accidental or other data compromise that they know about, or reasonably should know about, to the University Student Records Office or IT Compliance Officer for proper review and resolution.
    2. Reports of possible or actual data security breaches, no matter what size, must be made to **itcompliance@nmsu.edu** and **ciso@nmsu.edu**.
    3. Upon receipt of a report of a possible or actual data security breach, preliminary review and analysis will be conducted by the IT Compliance Officer, and appropriate action will follow. Depending upon the nature of the breach, such action may involve a formal investigation, which shall be conducted in an objective, prompt and thorough manner. The factual findings of the preliminary review and the formal investigation, if any, shall be documented, and proper notifications made to affected individuals and internal and/or external entities, as appropriate, including but not limited to the Family Policy Compliance Office (FPCO) of the U. S. Department of Education.

## PART 9: COMPLAINT PROCESS FOR ALLEGED VIOLATION(S) OF FERPA

If a student or eligible parent is denied access to inspect student educational information; information is wrongly released or disclosed without consent or exception from the requirement for consent; a request to supplement or amend the student's educational record is denied; or any other violation of FERPA is alleged, the student or eligible parent may file a complaint with: 1) The university's chief academic officer, the Office of the Executive Vice President and Provost, or 2) The federal Office of Family Policy Compliance Office, U.S. Department of Education, 400 Maryland Ave. SW; Washington D.C. 20202-5901 (202) 260-3887.

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 5 | Student Life and Conduct

**Rule Administrator:** University Student Records Office

**Last Updated:** 01/07/2020

## Related

**Cross-Reference:**
***See also:***

**RPM 5.40 - Student Educational Records-FERPA Compliance**

**Revision History:**
01/07/2020 Amendment approved by Chancellor
2017 Recompilation, formerly Rule 2.90.20
04/12/2016 Amendment approved by Chancellor
10/21/2015 Policy 2.90.20 approved as initial Rule 2.90.20 by Board of Regents
Prior revision history as Policy 2.90.20 not available.

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 5.50 – Award of Posthumous Honorary Degree

arp.nmsu.edu/5-50

## PART 1: PURPOSE

When circumstances merit, upon the death of a student, an academic department may nominate a student for a posthumous award of an Honorary Degree.

## PART 2: CRITERIA

The student must have completed at least 85% of the credit hours required by the student's academic program or have demonstrated compelling effort(s) to complete their degree, as determined by the faculty of the academic program.

## PART 3: PROCEDURES

A. A faculty member or department head in the student's major department, or equivalent at the community colleges, may initiate a departmental review of the facts supporting the nomination.
B. The major department faculty or equivalent at the community colleges, following usual departmental protocols, (e.g. consensus or majority vote of the faculty), determines the percentage of the degree requirements completed by the student, considers other relevant information, and votes whether to recommend nomination to the student's major dean or associate vice president of academic affairs at the community colleges.
C. If the recommendation for nomination is approved by the student's major dean or associate vice president for academic affairs at the community colleges, the nomination will be submitted to the executive vice president and provost for approval.
D. If approved by the executive vice president and provost, the nomination for the award of Posthumous Honorary Degree will be submitted to the Board of Regents for consideration.
E. Upon approval of the Board of Regents, the Honorary Degree may be awarded, either during the commencement ceremony, at a special ceremony or at another appropriate time approved by the executive vice president and provost. Any certificate

or documentation of the award should clearly indicate the honorary nature of the degree.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 5 | Student Life and Conduct

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 11/14/2017

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 6.75 A.

11/14/17 Amendment approved by Chancellor

06/21/12 Amendment approved by Board of Regents

10/22/07 Amendment approved by Board of Regents

10/09/07 Amendment approved by Administrative Council

© 2017 New Mexico State University - Board of Regents

# Chapter 6 | HR – Hiring, Work Rules and Assignments

## Subsections in Chapter 6


- 6.01 – Hiring
- 6.03 – Employment Categories
- 6.10 – Dual Career Couples
- 6.11 – Job Sharing
- 6.12 – Hiring Athletic Coaches and Directors
- 6.13 – Employment of Minors
- 6.14 – Hiring of Individuals Named in Contract
- 6.15 – Re-Employment of Retirees
- 6.16 – Employment of Tutors
- 6.17 – Avoidance of Nepotism and Personal Conflicts
- 6.20 – Employment Background Reviews
- 6.30 – Tenure Track Faculty Appointment
- 6.35 – Non-Tenure Track Faculty Appointments
- 6.41 – Joint Academic Appointments
- 6.42 – Post-Doctoral Appointments
- 6.43 – Graduate Faculty Appointments
- 6.50 – Faculty Credentials Required of NMSU Instructors of Record
- 6.51 – Qualification for Faculty Appointment, Generally
- 6.60 – Faculty Assignments – General
- 6.61 – Assignments – Teaching Load

- 6.62 – Faculty Assignments – Summer Session
- 6.63 – Faculty Assignments – International
- 6.64 – Faculty Exchange
- 6.70 – Searches for Academic Administrators
- 6.71 – Department Head Appointments
- 6.72 – Department Heads Responsibilities, including Teaching
- 6.81 – New Employee Orientation
- 6.82 – NMSU ID Card Issuance Procedures
- 6.85 – Staff Work Schedules
- 6.86 – Faculty Availability and Office Hours for Students
- 6.89 – Mandatory Employee Training; Opportunities for Professional Development
- 6.90 – Outside Employment or Activities
- 6.91 – Staff Consulting
- 6.92 – Faculty Consulting
- 6.93 – Public Affairs Participation

Select

Submit

## ARP Maintenance

The Administrative Rules and Procedures (ARP) is maintained by **University General Counsel**.

Inquiries should be directed to **gencounsel@nmsu.edu**

ARP History

## Policy Maintenance

The Administrative Rules and Procedures of NMSU Manual is maintained by University General Counsel. Inquiries should be directed to **gencounsel@nmsu.edu**.

## Proposals Under Review

Proposals for new and revised rules are available to NMSU stakeholders on the UGC SharePoint site.

UGC SharePoint Site

## Related Sites

**University General Counsel**

**Regents Policy Manual**

**Business Procedures Manual**

**Other University Regulations**

**Board of Regents**

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 6.01 – Hiring

arp.nmsu.edu/6-01

The Board of Regents (Board) has delegated to the Chancellor or to whomever the Chancellor delegates, the employment of all faculty, staff, and other university personnel. Although the Board should never actively nor directly participate in the actual hiring of university personnel, with the exception of selection of the Chancellor and the director/secretary of the New Mexico Department of Agriculture (See **RPM 1.30**), the Board should always be at liberty to review any particular hiring by the administration to determine whether or not the Board's hiring policies are being followed.

## A. Exempt and Faculty Hiring Procedures

The recruitment, selection, and hiring of exempt employees is accomplished by the employing department with approval of the appropriate director, dean/vice president, or executive vice president and provost, and the Office of Human Resource Services. Additional procedures for filling executive and faculty positions are contained in the Search Committee Guidelines, available through Human Resource Services at http://hr.nmsu.edu/searchcommittee/

## B. Recruitment

If no underutilization exists in the job grouping, positions may be posted for a minimum of 14 calendar days. If underutilization exists, the position is normally posted for 28 calendar days in order to generate an adequate applicant pool. Requests for exception to the 28 day posting may be submitted to the Office of Human Resource Services for consideration.

## C. Search Committee Procedures

Procedures to be followed when involving a search committee in the recruitment and selection process are contained in the Search Committee Guidelines, available through Human Resource Services at http://hr.nmsu.edu/searchcommittee/

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 6 | HR - Hiring, Work Rules and Assignments

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** Not Available

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 4.26

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 6.03 – Employment Categories

arp.nmsu.edu/6-03

## PART 1: PURPOSE

To define the NMSU employment categories for regular and non-regular faculty and for regular and non-regular staff.

## PART 2: ACADEMIC APPOINTMENTS

Academic appointments are extended to members of the faculty, administrators of academic programs, and individuals appointed to faculty ranks in the cooperative extension service, at the community colleges, and in the university library. Academic appointments are either regular or non-regular as defined below. Exceptions for extenuating circumstances must be approved by the Office of the Executive Vice President and Provost, with consultation from the Assistant Vice President for Human Resources or designee.

### A. Regular Academic Appointment

1. **Definition**: A regular academic appointment is a status for individuals hired in a 9-month or 12-month academic position with no pre-determined appointment termination date, as well as faculty hired by contract subject to annual renewal during the pre-tenure period.
2. **FLSA Status**: Exempt
3. **FTE**: A .5 FTE and not to exceed 1.0 FTE.
4. **Appointment Period**: Undefined, no predetermined termination date.
5. **Multiple Jobs**: Employees hired into regular faculty appointments are only eligible for simultaneous NMSU employment if all jobs are offered in compliance with other university policies and have a total combined FTE not to exceed 1.5.
6. **Eligibility for Benefits**: As allowed by the **ARP Chapter 8, HR-Benefits**.

### B. Non-Regular Faculty Appointments

## 1. Temporary Faculty Appointments

a. **Definition**: Temporary faculty appointment is a status for individuals hired for a predetermined length of time and may have a title rank of College Instructor, College Assistant Professor, College Associate Professor, or College Professor as specified at the time of employment.
b. **FLSA Status**: Exempt
c. **FTE**: Not to exceed .74 FTE.
d. **Appointment Period**: Not to exceed one (1) year but may be hired for a semester, academic year, or fiscal year. The department is authorized to continue to re-hire individuals as a new temporary appointment in compliance with other university policies; however, there shall be no entitlement or expectation of continued employment beyond the existing appointment period.
e. **Multiple Jobs**: Employees hired as temporary faculty may be hired into an appropriate category of non-regular employment simultaneously provided total combined job FTE does not exceed .74 and is in compliance with **ARP 6.35 Non-Tenure Track Faculty Appointments**.
f. **Eligibility for Benefits**: As allowed by the **ARP Chapter 8, HR-Benefits**.

## 2. Term Faculty Appointments

a. **Definition**: Term faculty appointment is a benefit eligible status for individuals hired for a predetermined length of time and may include the title rank of College Instructor, College Assistant Professor, College Associate Professor, or College Professor as specified in the written offer letter at the time of hire.
b. **FLSA Status**: Exempt
c. **FTE**: Not less than .75 FTE and not to exceed 1.0 FTE
d. **Appointment Period**: The appointment period is not less than six (6) months and may not exceed a total of two (2) consecutive years at which time the employee shall be required to have a 26-week break in NMSU employment. There is no entitlement or expectation of continued employment beyond the appointment period.
e. **Multiple Jobs**: Employees hired as term faculty may be hired into an appropriate category of non-regular employment simultaneously provided total combined job FTE does not exceed 1.0.
f. **Eligibility for Benefits**: as allowed by the Administrative Rules and Procedures of NMSU, Chapter 8, Employee Benefits.

## 3. Recruitment/Probationary Period Considerations

Advertising is optional for non-regular positions. Employees in non-regular positions may not be hired into a regular employment position without a competitive recruitment process. Any employee hired in a Term Staff

appointment that competes for an advertised regular position and is selected will serve a probationary period not including time served in a Term Staff appointment status.

### 4. Rights for Non-Regular Faculty Positions

a. Non-regular faculty are not eligible to file faculty grievances, per **ARP 10.60**. This does not apply for complaints involving any type of unlawful discrimination, which shall be filed with the NMSU Office of Institutional Equity and shall follow NMSU policy, rules and procedures.
b. Non regular faculty are not eligible for annual salary increases, promotion, transfer, retention, counter offers, etc.

## PART 3: STAFF EMPLOYMENT CATEGORIES

Staff employment opportunities are extended to non-faculty and are either regular or non-regular employment, as defined below. Exceptions for extenuating circumstances must be approved by the assistant vice president for human resources or designee.

### A. Regular Staff (Non-Faculty) Employment

1. **Definition**: Regular staff employment is a status for an individual hired with no predetermined employment termination date.
2. **FLSA Status**: Employment within this category may be either exempt or nonexempt.
3. **FTE**: A minimum .5 FTE and not to exceed 1.0 FTE.
4. **Employment Period**: Undefined, no predetermined termination date.
5. **Multiple Jobs**: Individuals hired with a regular employment status are only eligible for simultaneous NMSU employment if all jobs have a total combined FTE not to exceed 1.5.
6. **Eligibility for Benefits**: As allowed by **ARP Chapter 8, HR-Benefits**.

### B. Non-Regular Staff (Non-Faculty) Employment

#### 1. Temporary Staff Employment

a. **Definition**: Temporary staff employment is a status for individuals hired for short or long term employment periods usually to meet general operating requirements with a predetermined end date that is specified at the time of hire.
b. **FLSA Status**: All employment within this category will be based on either an exempt or nonexempt classification title and will be compensated on an hourly basis.

c. **FTE**: Not to exceed .74 FTE. FTE should reflect average hours to be worked during the employment period and should not exceed the average of 29 hours per week.
d. **Employment Period**: The employment period is a maximum of one (1) year; however, regardless of when initiated. The department is authorized to continue to re-hire the individual in temporary employment; however, there shall be no entitlement or expectation of continued employment beyond the existing employment period.
e. **Multiple Jobs**: Employees hired as temporary staff may be hired into another appropriate category of non-regular employment simultaneously provided total combined job FTE does not exceed .74.
f. **Eligibility for Benefits**: As allowed by the **ARP Chapter 8, HR-Benefits**.

## 2. Seasonal Staff Employment

a. **Definition**: Seasonal staff employment is short-term employment performed on a seasonal basis where, ordinarily, the employment pertains to or is exclusively performed during certain seasons or certain periods of the year. Seasonal work from its nature may not be continuous or carried on throughout the year. Seasonal employees are typically hired to support an annual or semi-annual event or to work during a specific agricultural growing season.
b. **FLSA Status**: All employment within this category will be based on either an exempt or nonexempt classification title and will be compensated on an hourly basis.
c. **FTE**: Not to exceed 1.0 FTE.
d. **Employment Period**: The employment period is up to a maximum of three (3) consecutive months. The individual is not eligible for rehire into any temporary or other non-benefit eligible position until there has been a break of employment greater than the current/previous employment period.
e. **Multiple Jobs**: Employees hired as seasonal staff may not be hired into another category of non-regular employment simultaneously.
f. **Eligibility for Benefits**: As allowed by the **ARP Chapter 8, HR-Benefits**.

## 3. Term Staff (Emergency Hire Only) Employment

a. **Definition**: Term staff employment is a benefit eligible status, which may only be utilized under a demonstrated urgent/critical business need.
b. **FLSA Status**: Nonexempt level classifications compensated hourly or exempt level classifications compensated professional salaried.
c. **FTE**: Not less than .75 FTE and not to exceed 1.0 FTE.
d. **Employment Period**: The employment period is not less than six (6) months and may not exceed a one year period, at which time the

employee shall be required to have a 26-week break in NMSU employment. Consecutive term staff appointments are not authorized. There is no entitlement or expectation of continued employment beyond the employment period.

e. **Multiple Jobs**: Employees hired as term staff employment may be hired into another appropriate non-regular employment category simultaneously provided total combined job FTE does not exceed 1.0.
f. The hiring college/division Dean/VP must include, in the position request, justification of the urgent/critical business need for a term staff employee. Requests will be reviewed and approved by the Assistant Vice President for Human Resource Services or designee.
g. **Eligibility for Benefits**: As allowed by the **ARP Chapter 8, HR-Benefits**.

### 4. Recruitment/Probationary Period Consideration

Advertising is optional for non-regular positions. Employees in non-regular positions may not be hired into a regular employment position without a competitive recruitment process. Any employee hired in a Term Staff appointment that competes for an advertised regular position and is selected will serve a probationary period not including time served in a Term Staff appointment status.

### 5. Rights for Non-Regular Staff Positions

a. Non-regular staff are not eligible to file for staff grievances, per **ARP 10.20**. This does not apply for complaints involving any type of unlawful discrimination, which shall be filed with the NMSU Office of Institutional Equity and shall follow NMSU policy, rules and procedures.
b. Non-regular staff are not eligible for annual salary increases, in-range adjustments, reclassification, promotion, transfer, retention, counter offers, etc.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 6 | HR - Hiring, Work Rules and Assignments

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 10/09/2018

## Related

**Cross-Reference:**
**ARP 6.35 - Non-tenure Track Faculty Appointments**

**ARP Chapter 8, HR-Benefits**

**Revision History:**

10/09/2018 Amendment  approved by Chancellor
2017 Recompilation, formerly 4.30.10
05/10/2016 Amendment approved by Chancellor
10/21/2015 Board of Regents approved replication of Policy 4.30.10 as initial Rule 4.30.10
12/11/2015 Amendment to Policy 4.30.10 approved by Board of Regents
04/03/2014 Amendment to Policy 4.30.10 approved by Board of Regents
06/20/2013 Amendment to Policy 4.30.10 approved by Board of Regents

---

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 6.10 – Dual Career Couples

arp.nmsu.edu/6-10

Dual career couples comprise an increasing percentage of university professionals. To recruit and retain diverse employees, New Mexico State University and the University of Texas at El Paso support efforts to accommodate the needs of dual career couples. Assistance in identifying employment opportunities in the southern New Mexico and El Paso, Texas area is available to aid in family relocation to our communities.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 6 | HR - Hiring, Work Rules and Assignments

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 06/21/2016

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 4.30 D.

06/21/16 Amendment approved by Chancellor

10/21/15 former Policy 4.30 replicated by Board of Regents as initial Rule 4.30

No Prior Revision History Available for Policy 4.30.

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 6.11 – Job Sharing

arp.nmsu.edu/6-11

When two people may be in the same academic department, a job sharing arrangement may be established. Salary and work duties are negotiable between the two people and the department subject to approval by the appropriate college dean and the executive vice president and provost. Candidates should discuss job sharing with the department head as early as possible in the search process.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 6 | HR - Hiring, Work Rules and Assignments

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 06/21/2016

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 4.30 E.

06/21/16 Amendment approved by Chancellor

10/21/15 former Policy 4.30 replicated by Board of Regents as initial Rule 4.30

No Prior Revision History Available for Policy 4.30.

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 6.12 – Hiring Athletic Coaches and Directors

arp.nmsu.edu/6-12

In recognition of the unique nature of the recruitment and hiring of athletic coaches and athletic directors, upon the approval of the chancellor, the university allows an alternative recruitment process for these positions. The hiring official may utilize an alternative process not requiring a public posting and fill a new or vacant coaching or athletic director position when the urgency of committing a job offer to a candidate is documented and/or utilization of the standard competitive processes otherwise required under this Rule is not practical to secure the selection of a highly qualified candidate. All candidates hired under this exception will serve under time-limited contract appointments.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 6 | HR - Hiring, Work Rules and Assignments

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 06/21/2016

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 4.30 F.

06/21/16 Amendment approved by Chancellor

10/21/15 former Policy 4.30 replicated by Board of Regents as initial Rule 4.30

No Prior Revision History Available for Policy 4.30.

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 6.13 – Employment of Minors

arp.nmsu.edu/6-13

Normally, employment of children under 16 years of age is prohibited. Consult the Office of Human Resource Services for any special considerations. Children under age 18 may not be employed or permitted to labor in any underground mine or quarry or at or about any place where explosives are used.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 6 | HR - Hiring, Work Rules and Assignments

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** Not Available

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 4.10

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 6.14 – Hiring of Individuals Named in Contract

arp.nmsu.edu/6-14

Under certain conditions it may be necessary for an employing department to hire an individual named in a grant or contract. With prior approval of the Office of Human Resource Services and the executive vice president and provost, a faculty or exempt staff member may be hired with full benefits under the following conditions:

**A.** The individual is named as principal or co-principal investigator of the grant or contract.

**B.** The individual named in the grant or contract possesses unique or highly specialized qualifications required by the granting agency in order to carry out the responsibilities required of the grant or contract.

**C.** The granting agency has approved the award of the grant or contract subject to the appointment of the particular individual named.

**D.** The university is awarded or assumes the oversight of an existing external workforce. Under these conditions, waiver of the advertising requirements for regular employment must be requested in writing to the Office of Human Resource Services and the Office of the Executive Vice President and Provost. Employment of an individual named in a grant or contract is contingent upon funding of that specific grant or contract and is not transferable to another source of funding.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 6 | HR - Hiring, Work Rules and Assignments

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** Not Available

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 4.30.20

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 6.15 – Re-Employment of Retirees

arp.nmsu.edu/6-15

## PART 1: PURPOSE

To clarify the terms and conditions under which the New Mexico Educational Retirement Board ("NM ERB") retirees may be re-employed by NMSU subsequent to retirement and how that re-employment may affect retirement benefits. This Rule is governed by NMSA 1978, § 22-11-25.1 and the NMERB's Rules 2.82.5.15 and 2.82.2.11, which may be accessed at **http://www.nmcpr.state.nm.us/nmac/** [Note: from the New Mexico Administrative Code website, click as follows: "Browse Compilation"; Title 2 (Public Finance); Chapter 82 (Educational Retirement); 2.82.5 (Retirement Benefits); Rule 2.82.5.15 (Return to Work) and Rule 2.82.2.11 (Employees Excluded from Coverage)]. Retirees should also refer to the NM ERB's website at **NMERB** for updates.

## PART 2: RULE ADMINISTRATOR

The Assistant Vice President for Human Resource Services administers this Rule; however, it is the responsibility of each NM ERB retiree to individually coordinate with the NM ERB regarding ERB approval of eligibility for re-employment, as well as to monitor the employee's compliance relating to FTE percentage in order to avoid or minimize any adverse impact to retirement benefits.

## PART 3: DEFINITIONS

A. "**ARP**" refers to the "Alternative Retirement Plan", also sometimes referred to as the defined contribution plan, one of the two types of retirement plans administered by the ERB. *To avoid confusion between the acronym for the Administrative Rules and Procedures of NMSU (also the "ARP"), this term (Alternative Retirement Plan) will be used in lieu of ARP.*

B. "**DCP**" refers to the "Defined Contribution Plan", one of the two types of retirement plans administered by the ERB, and sometimes referred to as the "Alternate Retirement Plan".
C. "**DBP**" refers to "Defined Benefit Plan", one of the two types of retirement plans administered by the ERB.
D. "**FTE**" refers to "full time equivalency". FTE typically refers to the number of hours, days, classes, required for a position to be considered full time. FTE may vary between positions and retirees should check with their department head to confirm what the FTE is for a particular position.
E. "**Fund**" "Fund" refers to the Educational Retirement Fund.
F. "**LAU**" refers to "local administrative unit" also known as an NM ERB covered institution and for purposes of this Rule typically means NMSU as the educational employer.
G. "**Layout**" refers to the 12 month period in which the retired member must not have rendered service of any nature whatsoever to a local administrative unit (NM ERB covered institution). This includes all employment whether full time or part time, substitute teaching, performing duties as a volunteer, which would otherwise be, or in the past have been performed for the local administrative unit by a paid employee or independent contractor, services rendered as an independent contractor, or services as an employee of an independent contractor. The 12 month layout is a pre-requisite for participation in NM ERB's Return to Work program.
H. "**NM ERA**" refers to the state of New Mexico's Educational Retirement Act, Sections 22-11-1 through 22-11-55, NMSA 1978.
I. "**NM ERB**" refers to the state of New Mexico's Educational Retirement Board, the statutorily authorized administrator of the NM ERA, which governs the retirement rights of eligible employees.
J. "**NM ERB Retiree**" includes both defined benefit plan retirees and alternative retirement plan retirees.

## PART 4: RULE STATEMENT(S)

NM ERB retirees may be re-employed by NMSU consistent with New Mexico law and NM ERB rules and regulations, as they may be amended from time to time. In the event of a conflict between this Rule, and the NM ERA or NM ERB rules/regulations, the latter shall govern.

### A. Return to Work Program

The New Mexico Return to Work Program permits qualified NM ERB retirees to

return to work, without limitations on the FTE percentage.

1. For employees who retired *after* January 1, 2001:
    a. The NM ERB retiree must not work for NMSU (or any other LAU) for 12 consecutive months; and
    b. Prior to the date of re-employment, the retiree/prospective employee must have submitted a Return to Work application to the NM ERB, and have received NM ERB approval, verifying the retiree's eligibility to participate in the Return to Work program.
2. For employees who retired *before* January 1, 2001, and since that time have not voluntarily suspended their retirement benefits, or were not required to suspend their benefits (e.g. worked less than .25 FTE per fiscal year):
    a. The 12 consecutive month layout requirement does not apply; and
    b. Prior to the date of re-employment, the retiree/prospective employee must have submitted a Return to Work application to ERB, and have received ERB approval, verifying the retiree's eligibility to participate in the Return to Work program.
3. For employees who retired *before* January 1, 2001, and since that time have voluntarily suspended their retirement benefits or were required to suspend their retirement benefits:
    a. Retirees must have had a 12 consecutive month period in which they did not work for a NM ERB institution; and
    b. Retirees/prospective employees must not have rendered services in any capacity to a local administrative unit for an additional ninety (90) consecutive days prior to returning to employment under the Return to Work Program. The 90 day period shall not include any part of a summer, winter, or spring break period or vacation or sick leave.
    c. Prior to the date of re-employment, the retiree/prospective employee must have submitted a Return to Work application to the NM ERB, and have received NM ERB approval, verifying the retiree's eligibility to participate in the Return to Work program.

## B. No Service Time or Refundable Contributions

1. Consistent with NMSA 1978, § 22-11-25.1 C., Return to Work Program retirees shall continue to receive retirement benefits, but shall not be entitled to acquire service credit, nor to acquire or purchase service credit in the future for the period of the retired member's reemployment.

2. Consistent with NMSA 1978, § 22-11-25.1 E., both the Return to Work retiree, and NMSU shall pay to the fund an amount equal to the amount of the member contributions that would have been required under NMSA 1978 § 22-11-21 if the re-employed member had been a non-retired employee. Contributions paid pursuant to this section shall not be refunded to the employer or to the employee.

## C. Return to Work Provision

As described below, the NM ERB does not consider limited employment with an LAU to fall within the Return to Work Program.

1. ERB retirees, which includes both DBP and DCP retirees, may work for an LAU without satisfying the Return to Work Program requirements if the retiree works an amount equal to 0.25 FTE (i.e., 25% of the full-time equivalency). *See* Rule NMAC 2.82.2.11 (B). (Retirees working under the .25 FTE provision, whether from the Defined Benefit Plan or the Alternative Retirement Plan must be working **.25 or less** than a Full time Equivalency.) A retiree who works under the Return to Work Provision is not required to apply for the Return to Work Program and will not have to pay member contributions. Time worked under the Return to Work Provision does not qualify for the 12 consecutive month break in service or layout required for the Return to Work Program. **If the retiree's workload exceeds 25% of what is considered full time employment, the retiree no longer is eligible for the provision. The retiree member's retirement benefit will be suspended for the duration of the employment and will return to active status.** *See Also* Part 5. subsections E. 2 and 3 below.
2. As indicated above, Alternative Retirement Plan retirees may work for an LAU pursuant to the NM ERB's Return to Work Provision. Retired Alternative Retirement Plan participants who exceed the limitations of the Return to Work Provision will be required to pay contributions (non-refundable) at the rates established for active members as required by NMSA 1978 § 22-11-25.1 (E). *See Also* Executive Director's Policy Regarding Contributions By Retirees Working Pursuant to the Return to Work Program, Return to Work Contribution. *See Also* Part 5. subsections E. 2 and 3 below.

## D. Consequences for Violation of NM Educational Retirement Law

1. If a NM ERB retiree returns to employment without first completing twelve consecutive months of retirement or otherwise fails to complete other requirements for the Return to Work Program, the retiree's retirement benefits may be immediately suspended, and the retiree will also be required to pay the fund a sum equal to the retirement payments received while the retiree was ineligible, plus interest at the rate set by the Educational Retirement Board.
2. Retirees under the Alternative Retirement Program who return to work also must comply with the Return to Work Program or the Return to Work Program Provision. See Section 22-11-25.1 (E) NMSA 1978 of the Educational Retirement Act and all applicable NM ERB Return to Work rules, including Rule NMAC 2.82.5.15 and Rule NMAC 2.82.2.11 (B). *See Also* Executive Director's Policy, Return to Work Contribution.
3. Before the retiree's monthly retirement benefits will be resumed, the retiree member must certify to the NM ERB that the retiree has ceased the employment that would violate the Return to Work rules.
4. If the retiree member desires to re-qualify for the Return to Work program, the retired member shall complete the required minimum break in service.

## E. Additional Requirements for Re-Employment of NM ERB Retirees

1. Upon re-employment under the NM ERB Return to Work program, NM ERB retirees, which includes both DBP and DCP (Alternative Retirement Plan) retirees, shall provide to the Office of Human Resource Services, a copy of the approval granted by the NM ERB, finding the retiree eligible for participation in the Return to Work program.
2. Upon re-employment, and in accordance with the state's rule on the Return to Work provision, NM ERB retirees, which includes both DBP and DCP (Alternative Retirement Plan) retirees, shall be limited to working an amount equal to the 0.25 FTE (i.e., 25% of the full-time equivalency) in a fiscal year. **It shall be the responsibility of the retiree to ensure that the NM ERB Return to Work Provision limits are not exceeded; NMSU will not be responsible for any administrative consequences imposed by the NM ERB in the event that the limitations of the exception are exceeded.**

3. NM ERB retirees, which includes both DBP and DCP (Alternative Retirement Plan) retirees, who work for more than one local administrative unit covered by ERB are obligated to inform each employer about all NM ERB-covered jobs. The law requires the earnings of all NM ERB-covered jobs to be combined in the determination of whether the retiree complies with the Return to Work Provision limit on the 0.25 FTE. NM ERB retirees who work more than 25% of the full time equivalency (FTE), will be returned to active status in the Defined Benefit Plan, **even if the retiree originally retired under the Alternative Retirement Plan**. To avoid disruption in receipt of retirement benefits, the NM ERB retiree should ensure that the percentage FTE worked do not exceed the limits set by the NM ERB. *See* Part 5. subsection E. 2 above.
4. NM ERB retirees shall be subject to the same hiring policies and procedures as other prospective applicants, if re-employed, including the competitive hiring process required for certain positions. However, NM ERB retirees returning to faculty positions may only be employed as college non-contract faculty.
5. NM ERB retirees who are hired in a regular or non-regular term position will accrue the same number of annual leave days per fiscal year (prorated based on FTE) as regular employees. All earned annual leave must be used or forfeited by June 30th of every fiscal year. Retirees will not be paid any annual leave upon termination of employment with the university.

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 6 | HR - Hiring, Work Rules and Assignments

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 10/09/2019

## Related

**Cross-Reference:**

**Revision History:**
10/09/2019 Amendment approved by Chancellor
2017 Recompilation, formerly Rule 7.27
06/27/2016 Change in Benefits approved by Board of Regents

06/21/2016 Change in Benefits approved by Chancellor
10/21/2015 former Policy 7.15.05 replicated by Board of Regents as initial Rule 7.15.05
08/19/2013 Amendment to Policy 7.27 approved by Board of Regents
06/20/2013 Amendment to Policy 7.27 approved by Board of Regents
10/22/2007 Amendment to Policy 7.27 approved by Board of Regents

---

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 6.16 – Employment of Tutors

arp.nmsu.edu/6-16

## A. Approvals

All tutors paid from university funds will be recommended by the head of the department in which the course is taught. In addition, approval must be obtained from the dean of the college. Graduate students must also obtain the approval of the dean of the Graduate School.

## B. Requirements for Providing Tutorial Services

Additional requirements for tutorial services are outlined in the *NMSU Student Employment Handbook*.

## C. Employment of Graduate Assistants, Fellows and Trainees

Graduate assistants, fellows, and trainees may be employed as tutors. Such employment must be shown to be free of conflict of interest and must be consistent with policies governing supplemental appointments of such students. (*See NMSU Graduate Catalog*)

## D. Hourly Tutoring Rates

See the NMSU Student Employment Handbook. For exceptions to published rates for graduate students, contact the dean of the graduate school.)

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 6 | HR - Hiring, Work Rules and Assignments

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** Not Available

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 6.90

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 6.17 – Avoidance of Nepotism and Personal Conflicts

arp.nmsu.edu/6-17

## PART 1: PURPOSE

NMSU's objective is to eliminate the use of non-merit based factors, to include familial, personal or business relationships, in making hiring/personnel decisions. This rule is guided in part by the state's personnel administration, which prohibits state agency employees from hiring, promotion, or direct supervision of a person related (by blood or marriage) within the third degree; as well as by other university policies requiring disclosure of personal conflicts of interest, with appropriate action to manage or avoid the conflict.

## PART 2: RELATIONSHIPS WHICH CREATE A PERSONAL CONFLICT OF INTEREST

Persons related to each other may be employed at NMSU, conditioned upon compliance with this rule. The following types of Relationships are presumed to create a personal conflict of interest. For purposes of this rule, family is defined more broadly than in ARP 3.02 Part 2 E. and ARP 8.47.

A. **Familial Relationships:** Family members related within the third degree: Spouse or domestic partner (ARP 8.03), parent or legal guardian, child, sibling, aunt/uncle, niece/nephew, grandparent, grandchild, great grandparent or great grandchild. Such familial relationships created by law are also included (e.g. adoptive or step parent; mother/father in law; half or step siblings).

B. **Personal Relationships:** Relationships presumed to create a personal conflict of interest include:
    1. Intimate Partners, defined as a person with whom the employee presently has, or has had in the past, a romantic or sexual relationship.
    2. Household Members, defined as persons who live in the same residence with a reciprocal emotional relationship, including foster children and legal wards. This does not include persons sharing a facility or residence (such as a boarding house), and there is no emotional or intimate relationship.
    3. Business Partner, defined as a person with whom one shares an ownership interest in a business or commercial venture.

## PART 3: RULES

This rule promotes objective employment decisions, while also requiring the disclosure and management (when feasible) of personal conflicts of interest based on Relationship. Additional laws, regulations or contract provisions may also apply; the university will adhere to the strictest rule, law or provision. Depending upon the nature of the conflict, the timing and circumstances relating to the disclosure, the work unit or type of employment, or additional compliance requirements, it may not be feasible to manage certain personal conflicts of interest. In such cases, one or more of the employees involved in the conflict of interest will be subject to separation from service.

A. **Scope of Application**: This rule applies throughout the NMSU system for all NMSU officials and employment classifications (e.g. regular and temporary faculty, staff and students, including post docs, work-study and graduate or teaching assistants), as well as for all types of volunteer affiliates (*ARP 2.55 – NMSU Recognition of Affiliated Individuals*).

B. **Avoidance of Potential and Actual Conflicts of Interest**: The following rules apply in hiring and other personnel actions, to avoid nepotism and personal conflict of interests:
    1. NMSU officials and employees will not hire, supervise, evaluate or otherwise participate in decisions affecting the employment or volunteer status of individuals with whom they have a Relationship.
    2. NMSU supervisors will not place their employees or volunteers in a reasonably foreseeable conflict between the interests of the university and the personal needs of the supervisor. *(ARP 3.08)*
    3. A principal investigator overseeing a multi-disciplinary sponsored research project may not supervise the research work of any individual with whom they have a Relationship, even when the individual works in a different academic department. *(ARP 3.11 Part 3 B.)*
    4. NMSU faculty and other researchers must not permit Relationships with individuals employed elsewhere to affect adversely NMSU's opportunities to conduct sponsored research. (*ARP 3.11 Part 3 C.)*
    5. Employees in a supervisor's reporting line will not hire, supervise, evaluate or otherwise participate in decisions affecting the employment or volunteer status of individuals who have a Relationship with the supervisor. For example, a supervisor's child, Intimate Partner, sibling or parent is not permitted to work for someone who reports directly to the supervisor.
    6. No faculty member, department chair, dean or other academic administrator may vote, make recommendations, or in any other way participate in the decision of any matter that may materially affect the appointment, tenure, promotion, salary, or any other status or interest of an individual with whom they have a Relationship.
    7. No staff or other employee may supervise, vote, make recommendations, or in any other way participate in the decision of any matter that may materially affect the appointment, tenure, promotion, salary, or other status or interest of an individual with whom they have a Relationship.
C. **Non-Retaliation**: An official, employee or volunteer who reports a Relationship, or participates in any investigation as may be necessary, is protected from retaliation. Allegations of retaliation will independently be investigated, and if substantiated, constitutes cause for disciplinary action, up to, and including, termination.

## PART 4: ROLES AND RESPONSIBILITIES

A. **Prospective Employees:** Prospective employees with a Relationship to any supervisor in a department in which they are applied for employment will divulge such Relationship during the hiring process.
B. **Employee**: An employee or prospective employee related to a supervisor is responsible for disclosing or reporting, as applicable, the Relationship to the next level supervisor or to the assistant vice president of human resource services for appropriate administrative action.
C. **Any Party**: A person privy to information indicating a Relationship, and non-compliance with this rule, should report the Relationship to a responsible supervisor, to Human Resource Services (HRS), and/or to Audit Services. Alternatively, such reports may be filed through the university's confidential reporting line, EthicsPoint.
D. **Supervisor:**
    1. Supervisors are responsible for managing or otherwise addressing perceived and reported personal conflicts of interest, in coordination with their dean, vice president or equivalent official. If a conflict of interest is unavoidable within the unit, the supervisor should consult with the assistant vice president of human resource services or designee to explore the potential for transfer or other options available within NMSU.
    2. Supervisors are responsible for reporting alleged violations of this policy (non-disclosed and non-managed COI's) to their dean, vice president or equivalent official, who will consult with the assistant vice president of human resource services.
    3. Supervisors are responsible for disclosing their own Relationships, including consensual relationships which may present a conflict of interest to their dean, vice president or equivalent official. (See also *ARP 3.13*)
E. **Faculty**: By virtue of the position of authority they have in relation to students, faculty are responsible for disclosing Relationships*),* including consensual relationships *(See also ARP 3.05, 3.06 and 3.13)*. Faculty are also responsible for working with their department head and dean to manage (when possible) potential and actual conflicts of interest.

F. **Dean, Vice President or Equivalent Official**: The dean, vice president or equivalent official, in consultation with the assistant vice president of human resource services is responsible for addressing and resolving situations of actual or perceived nepotism and conflicts of interest based on Relationships, including inappropriate consensual relationships (*See also ARP 13*). If a personal conflict of interest is not manageable, the dean, vice president or equivalent official should consult with the assistant vice president of human resource services or designee to consider options available beyond the work unit. The dean, vice president or equivalent official will document, in memo form, all perceived and reported conflicts of interest and the solutions to manage them and send to the assistant vice president of human resource services. *See Section G. below.*

G. **AVP-HRS and CAE**: Reports from third parties to HRS or to Audit Services regarding alleged Nepotism or a personal conflict of interest arising from a supervisor in a Relationship will be subject to confidential internal investigation. The chief audit executive (CAE) and the assistant vice president of human resource services (AVP-HRS) will confer on each case in order to maintain consistency in the standards of review and for consistency in the application of corrective or disciplinary action when the facts substantiate a violation of this rule or other applicable policy, law or contract provision.

H. **AVP – HRS and Provost**: After review of the documentation received from the dean, vice president or equivalent officials, the assistant vice president of human resource services of or designee may refer specific matters of concern for additional review to the provost (faculty in the academic units and community colleges) or to the president (all other personnel). The decision by the provost or by the president relating to the disposition of a personal conflict of interest is final.

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 6 | HR - Hiring, Work Rules and Assignments

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 01/14/2020

## Related

**Cross-Reference:**

ARP 3.05 - Faculty or Staff as Students

ARP 3.06 – Relatives and Significant Others as Students

ARP 3.08 – Requests Made to Subordinates

ARP 3.11- Conflicts of Interest/Commitment in Sponsored Activities

ARP 3.13 – Conflicts of Interest Arising from Consensual Relationships

**Revision History:**

01/14/2020 ARP 6.17, amending former ARP 3.04, approved by Chancellor

2017 Recompilation, formerly Rule 3.20.32

---

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 6.20 – Employment Background Reviews

arp.nmsu.edu/6-20

In order to create a safe and secure workplace and to ensure that New Mexico State University employees are qualified to perform the duties and responsibilities of the positions they hold, the university has adopted a background review Rule. The Rule and procedures are set forth below:

## A. Background Reviews: Background reviews, depending upon the position, may include

1. Credential verification (academic degrees certification, professional licenses, etc.)
2. Criminal history and identity (Federal, State and Local)
3. Employment references
4. Consumer credit reports
5. Drug testing
6. Social Security Number traces
7. Motor vehicle driving history

## B. Positions/Employees Subject to Background Reviews

1. The following employees will be subject to background review:
    a. All regular employees who are hired, rehired, transferred, promoted, reclassified, or appointed to interim positions. Rank promotions of tenured, tenure track and non-tenure track faculty are not subject to a background review upon promotion.
    b. University employees competing for vacancies through an external search process.
    c. University employees changing positions from faculty to academic administrative or to administrative status.
    d. Graduate assistants, teaching assistants, post doctoral appointments, temporary employees, student employees, volunteers (with the exception of 4-H volunteers) and affiliates with significant responsibilities listed in the NMSU Sensitive Duties Checklist. A background review will be conducted at the initial

time of hire. Employees holding positions in any of these categories will not be subjected to another background review unless there is a break in employment of one year or more.

## C. Conditional Exception for Short Term Hires

For short-term hires of 30 days or less (no extensions), a waiver may be granted by human resource services. However, the department head/director is responsible for ensuring that the employee does not perform duties listed in the NMSU Sensitive Duties Checklist without adequate safeguards.

## D. Prior History of Criminal Conviction

Potential candidates, including graduate assistants, teaching assistants, post doctoral appointments, temporary employees, emergency hire employees, student employees, volunteers (with the exception of 4-H volunteers), and affiliates that disclose a felony conviction will be subject to a background review prior to a final offer of employment.

## E. Required Consent to Release

A signed Background Check Release Form is required as part of the application process and must be present before any background review may be conducted.

## F. Response to Adverse Information

Any background review report that reveals adverse information on an applicant or employee shall not automatically disqualify a candidate for the position being sought or held conditionally pending results of review.

## G. Rejection or Termination of Employment for Misrepresentation

Any material misrepresentation or omission on an application document may be grounds for rejection of the application, termination of employment, or refusal of subsequent employment consideration with the university.

## H. Possibility for Additional Employment Reviews

Additional employment reviews may be required by law, regulation, or contract.

## I. Confidentiality

Background review information findings are to be regarded as highly confidential and will be released only under conditions consistent with applicable law.

## J. Procedures

1. **Determination Regarding Nature of Background Review:** When a department initiates any action requiring a background review, the hiring department will coordinate with Office of Human Resource Services to determine the type(s) of background review(s) to be conducted.
2. **Requirements for Job Posting and Application Packet:** All job postings must contain notice that background reviews will be performed on the finalist. The application packet required of candidates must include a Background Check Release Form to be considered a complete application.
3. **Hiring Department Duties:** The hiring department is responsible for obtaining the following information on finalists when required for the position:
    a. **Educational credentials:** Verify through official transcripts the highest (terminal) degree of final candidates.
    b. **Employment references and past performance:** Check and document at least three of the relevant references listed on the application or resume. Verify work dates, job titles, work experience and performance of candidates.
    c. **Professional license or certifications:** If a position requires a license or certification(s), such as a licensed practical nurse, contact the responsible licensing board (local or national) to verify and document that the candidate has a current and valid license or include this in your background review request.
4. **Initiation of Post-Offer Background Review Process:** Once a finalist is selected, the hiring department will forward to Human Resource Services a completed permission to offer, Employment Background Review Request Form, a copy of the a Background Check Release Form, pertinent application materials, and Sensitive Duties Checklist. The Office of Human Resource Services will work with the hiring department to coordinate the appropriate background reviews.
5. **HRS Coordination with NMSU's Vendor**: The Office of Human Resource Services will coordinate requests to external vendors for the applicable background review

checks and will note on the Employment Authorization Form the date the authorization was received and the date the request was made to external vendors. The Office of Human Resource Services will review all background review reports received.

6. **Non-Adverse Information Discovery:** If background review reports are non-adverse, the Office of Human Resource Services will notify the hiring department that the offer may be finalized or, if the individual is currently working, that the background check has been successfully completed and the hiring process is finalized.
7. **Adverse Information Discovery:** If the background review reports produce any information that might be considered as a cause for an adverse employment action, the Office of Human Resource Services will work with the hiring department, appropriate dean/vp and Office of the General Counsel to evaluate the value of the information against the total past employment record and future employment potential. These parties will assess the relevance of the information to job duties, the date of the offense(s), the nature of the offense(s), and the accuracy of the information the individual provided on the employment application. If consensus cannot be reached, the executive vice president and provost (or designee) will make the final decision.
8. **Pre-Adverse Action Notice Process:** If the information is deemed relevant and prompts the university to consider taking adverse employment action (i.e., denying employment, reassignment, or termination), the Office of Human Resource Services, in compliance with Fair Credit Reporting Act (FCRA), is required to forward a New Mexico Pre-Adverse Action Notice to the applicant that includes a copy of the individual's background report and a copy of "A Summary of Your Rights Under the Fair Credit Reporting Act." The Pre-Adverse Action Notice will provide the candidate an opportunity to challenge the information provided in the report and take steps to correct inaccuracies or provide explanation. A final employment decision will not be made by the hiring department until all information is gathered and considered, or at such time as the applicant fails to respond as required. A minimum of five days for an applicant to refute, explain or correct the information is required.
    a. **Notice to Applicant:** The Adverse Action Notice forwarded to the applicant must include:
        i. The name, address, and phone number of the reporting agency.
        ii. A statement that the agency supplying the report did not make the decision to take the adverse action and cannot give specific reasons for it; and a notice of the individual's right to dispute the accuracy or completeness of any information the agency furnished, and the right to receive a free additional consumer report from the agency upon request within 60 days, and to dispute with the reporting agency the accuracy or completeness of any information in a consumer report furnished by the agency.

9. **Retention of Records:** The Office of Human Resource Services will manage and retain employment background review information. Information collected on successful applicants will be stored separately from the official employee files. Information collected on unsuccessful applicants will be stored with the candidates' application materials and retained for three years. Documents related to employment background review information collected by hiring departments will be filed and maintained in the departments and destroyed three years after rejection for unsuccessful candidates or three years after termination or retirement for successful candidates.
10. **Coordination Required:** All hiring departments should contact the Office of Human Resource Services for further assistance if information obtained from a consumer report is to be used to take adverse action against a candidate or employee.

## NMSU BACKGROUND REVIEW – SENSITIVE DUTIES CHECKLIST

New Mexico State University requires a background review on graduate assistants, teaching assistants, post doctoral appointees and other temporary employees, student employees, volunteers and affiliates that have significant responsibilities listed at Sensitive Duties Checklist:

# Details

**Scope:** NMSU System
**Source:** ARP Chapter 6 | HR - Hiring, Work Rules and Assignments

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 07/15/2008

# Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 4.30.05

07/15/08 Amendment ratified by Board of Regents

07/08/08 Amendment adopted by the Administrative Council

09/08/06 Policy adoption ratified by Board of Regents

04/11/06 Policy approved by the Administrative Council

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 6.30 – Tenure Track Faculty Appointment

arp.nmsu.edu/6-30

## A. Tenure Home

Tenure at the university is placed in a specific department/program/community college where the criteria for each individual's tenure are established. Tenure at the community college means at the community college, not on the main campus. There is no obligation to bring the person to the main campus if the person's position ceases to exist at the community college.

## B. Initial Appointment

Excerpts from this manual regarding promotion and tenure will be presented to each new member of the faculty* prior to appointment and the faculty member's acceptance of an appointment indicates understanding and acceptance of the provisions of the contract as specified in this manual. Information regarding social security, retirement, hospitalization, disability, and life insurance will be presented to each prospective member of the faculty prior to appointment and acceptance of the conditions of employment. The patent policy, rules and procedures for the university staff will be presented to each prospective member of the faculty prior to appointment, and acceptance of the appointment indicates understanding and acceptance of this policy. *See* ARP 11.05 – Intellectual Property Management.

## C. Temporary Contracts (Issued by the Office of the Executive Vice President and Provost)

Contracts which cover an employment period of either 9 months or 12 months are issued as follows:

1. Contracts are issued to full-time tenure-track faculty members.* Full-time is interpreted to apply to tenure-track faculty members who are released no more than 1/4 time to duties other than academic and/or research programs and/or academic

administration. Unless prior approval for exception is obtained from the department head, dean, and executive vice president and provost, it will be considered that all other faculty are less than full-time and occupy non-tenure-track positions.

2. Nine-month contracts cover the period from the opening faculty meeting in the fall to the date final grade reports are due for the spring semester; 12-month contracts are issued effective July 1 and terminate on June 30 of the following year. Temporary contracts are presumed to end at the conclusion of the stated term. The terms shall be stated in contractual form and a copy retained by the university and the appointee.
3. New tenure-track faculty reporting for duty after the last Friday in September (12-month employees) or the second Friday in October (9-month employees) will not receive a temporary contract. Instead, the dean will prepare an agreement for the new faculty member's signature covering employment for the remainder of the year (this form to be submitted with the initial Personnel Action Form). The first contract will be issued at the beginning of the next contract period, which will constitute the first year of the probationary period toward tenure.

**Interpreted as including all tenure-track and tenured members of the instruction staff and the Agricultural Experiment Station staff; all Cooperative Extension Service state staff members; the Research Centers' staffs; and any others whom the Board of Regents may designate.*

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 6 | HR - Hiring, Work Rules and Assignments

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 07/29/2009

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 5.98 A – C

07/29/09 Amendment approved by Board of Regents

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 6.35 – Non-tenure Track Faculty Appointments

arp.nmsu.edu/6-35

Non-tenure-track faculty will be employed to teach, do research, or perform other work assignments. They may be employed full-time or part-time, with regular or non-regular status. All appointments and renewals are subject to need, availability of funding and terms of appointment. The initial employment base period of a non-tenure-track faculty member may be renewed depending on funding availability, needs of the employing unit, and the results of performance evaluations.

Persons in non-tenure-track faculty positions may only be hired into tenure-track positions following a national search. In the event that they are hired into tenure-track positions, their service in non-tenure-track positions shall not normally count toward tenure.

## A. College Faculty

The titles of college instructor, college assistant professor, college associate professor, and college professor are used for non-tenure-track faculty hired primarily to teach courses for the university, although they may at times serve in an administrative or supervisory capacity or be assigned to research.

1. College faculty must have master's degrees or equivalent experience in the field but do not always have terminal degrees.
2. Regular College Faculty appointments are renewable annually for an unlimited time. Although employing units are not obligated to renew or to give a reason for nonrenewal of a college faculty contract, hiring departments are encouraged to promote an environment of stability by renewing contracts of college faculty when warranted by the need of the department and the performance of the faculty member.
3. College faculty members shall be evaluated annually.
4. Regular college faculty are eligible for salary increases and promotion to the next rank according to policies, procedures, and criteria set by the university and their colleges and departments. *(See* Employment Base and Status below).

5. College faculty are listed in the university catalogs under their assigned departments and are eligible for privileges accorded other faculty, such as ID cards, library privileges and faculty parking.
6. College faculty are eligible to apply for membership in the graduate faculty and, if accepted, supervise theses and dissertations while a member of the graduate faculty.
7. College faculty are eligible to serve as principal investigators on grants and proposals.
8. As provided for in the Faculty Senate Constitution, college faculty can serve on the Faculty Senate.

## B. Research Faculty

The titles of research assistant professor, research associate professor, and research professor are used for persons who are hired to engage in research activities and have qualifications similar to those held by tenure-track faculty of comparable ranks.

1. A clear statement of justification as to why it is in the university's best interest to grant research faculty status will be noted on the hiring forms by the department head and forwarded through the academic dean to the executive vice president and provost for each research faculty appointment.
2. Salaries are normally contingent on external funding, though a department or college may fund the salary of a research faculty member from internal funds for a short time while external funds are being sought.
3. Research faculty members are evaluated annually and are eligible for salary increases and promotion to the next rank according to policies, procedures, and criteria set by the university and their colleges and departments.
4. Research appointments are renewable annually for an unlimited time provided funding is available and annual evaluations demonstrate acceptable job performance.
5. Research faculty are listed in the university catalogs under their assigned departments and are eligible for privileges accorded other faculty, such as ID cards, library privileges and faculty parking.
6. They are eligible to apply for membership in the graduate faculty and, if accepted, supervise theses and dissertations or serve as the dean's representative while a member of the graduate faculty.
7. Research faculty may serve as principal investigators on grant proposals.
8. At the discretion of their department head or equivalent administrator, they may retain their research faculty status without pay while funding is

being sought.

## C. Extension Associate

An individual hired into a Cooperative Extension Service position in regular or non-regular status, full-time or part-time, funded principally (50 percent or more) by grants or other nonpermanent funds may be designated an extension associate.

1. An individual hired with less than the master's degree may also be designated as extension associate and be given the courtesy title of college instructor, college assistant professor, college associate professor, or college professor.
2. An extension associate cannot obtain tenure.
3. When an extension associate either receives a master's degree and/or recurring state funds become available, an extension associate may be considered for appointment to tenure-track status following normal appointment rules.
4. Extension associates may be notified of nonrenewal with proper notice: those in the first year of service will have 3 months' notice prior to their anniversary date; those in the second or more years of service will have 6 months' notice prior to their anniversary date.

## D. Prior Service

Non-tenure-track faculty have duties and/or qualifications and/or expectations different from tenure-track faculty. Consequently, service in the non-tenure-track position will not normally count towards tenure in any subsequent tenure-track appointment.

## E. Employment Base and Status

The fixed-period base for employment of a non-tenure-track faculty member is a time period that may be a semester, an academic year, or a fiscal year, and the amount of assigned effort may be figured on the basis of hours per week, credits per semester, or credits per academic year.

1. The full-time hourly basis is 40 hours per week.
2. The full-time credit basis is 12 credits per semester or 24 credits per academic year, except in the community colleges, where the full-time credit basis is 15 credits per semester or 30 credits per academic year.

3. The full-time equivalent (FTE) fraction for a non-tenure-track faculty member employed on an hourly basis is the ratio of the number of hours assigned per week to the basis of 40 hours/week. The FTE fraction for a non-tenure-track faculty member employed on a credit hour basis is the ratio of the number of credits allocated during the applicable base period to the full-time credit basis applicable for that base period. An FTE fraction of .75 or greater is considered full-time, while an FTE fraction less than .75 is considered part-time.
4. A non-tenure-track faculty member employed as temporary and averaging an FTE of .67 per college or more over 2 consecutive academic years may be eligible to be considered for a regular non-tenure-track appointment after appropriate advertising. If not converted to regular appointment, the employee's FTE must average less than .67 per college during each of the ensuing 2 consecutive academic years.
5. A temporary faculty member averaging less than .67 FTE per college over 2 consecutive academic years may be eligible for renewals of temporary appointments after appropriate reviews and approvals.
6. Temporary appointments require an appointment end date on the hiring form no later than 1 calendar year after the hiring date. All temporary appointments are limited to 1 year at a time.
7. If there is no break in service, both regular and temporary non-tenure-track appointments may be renewed without advertising, after appropriate reviews and approvals.

## F. Special Application for Non-tenure-Track Temporary Community College Faculty

A non-tenure-track faculty member employed as temporary and averaging an FTE of .67 per college or more, over 2 consecutive academic years may be eligible to be considered for a regular non-tenure-track appointment after appropriate advertising. (For benefits, *See* Salaries/Benefits) If not converted to regular appointment, the employee's FTE must average less than .67 per college during each of the ensuing 2 consecutive academic years. A temporary faculty member averaging less than .67 per college over 2 consecutive academic years may be eligible for renewals of temporary appointments after appropriate reviews and approvals.

## G. Qualifications

Qualifications for appointment of non-tenure-track faculty are to be determined in such a manner as to be flexible enough to meet the particular needs of each unit utilizing such faculty, but minimum qualifications shall be a master's degree or equivalent experience in the field or related field for the junior ranks of instructor and assistant professor, and an earned doctorate or equivalent experience in the field or related field for the senior ranks of associate professor and professor. (*See* **ARP 6.50 – Faculty Credentials Required of all NMSU Instructors on Record**.)

## H. Appointment and Nonrenewal

Each regular or non-regular non-tenure track faculty member will be given a copy of the employing conditions, generally as an offer notification. At the time of first hire at the university, each regular or non-regular non-tenure-track faculty member should read this section of the rules and procedures, as well as the non-tenure-track promotion procedures of the appropriate college.

1. Nonrenewal of a non-tenure-track appointment may be without implication of criticism or specification of cause.
2. An appointment end date on the initial offer notification constitutes written notice of the end date of the appointment. In such a case, the individual concerned should be informed as soon as possible whether the individual will be offered subsequent employment following the appointment period, either as a renewal of a regular appointment or in non-regular status.
3. Successive year renewals of regular appointments that specified an appointment end date may be made without advertising the position.
4. If a regular appointment is not renewed for at least the succeeding semester, then it must be re-advertised.
5. The minimum written notice of nonrenewal of a regular appointment that does not include an appointment end date on the offer notification will be as follows:
    a. During the first year of service in regular status (9- or 12-month basis), 3 months' notice will be given before the end of the academic year (9-month employees) or the fiscal year (12-month employees).
    b. After the first year of service, 6 months' notice before the end of the academic year (9-month employees) or the fiscal year (12-month employees) will be given.
    c. Non-tenure-track faculty members employed without an ending date whose employment is contingent upon the availability of non-I&G funds shall be given at least 30 calendar days' notice of nonrenewal.

d. Providing proper notice of nonrenewal is given, the university does not have any legal obligation to provide funding for any non-tenure-track faculty member beyond the current appointment period. However, employing units are strongly encouraged to attempt to maintain a stable job environment for this type of appointment.
e. A non-tenure-track faculty member may be dismissed for cause at any time that the member's conduct becomes inimical to the students, the faculty, the educational program, or the university.
f. The executive vice president and provost must approve any involuntary termination for cause.
g. A non-tenure-track faculty member will have the right to appeal human resources decisions, which directly affect the member, according to university appeals procedures. (*See* **ARP 3.25 Discrimination, Harassment and Sexual Misconduct on Campus**; **ARP 10.60 Faculty Grievance Review and Resolution**; and **ARP 10.50 Faculty Alleged Misconduct Investigation, Discipline and Appeals Processes**)
h. Any non-tenure-track faculty member who proposes to resign shall give written notice to the immediate supervisor at the earliest time possible.

## I. Voting Privileges

The tenured and tenure-track faculty in employing units of the university will decide which types and ranks of non-tenure-track faculty may vote on (1) routine departmental matters, and (2) policy matters. Should a question arise whether an issue is a routine departmental matter or a policy matter, the tenured and tenure-track faculty will decide. Non-tenure-track faculty will not vote on any faculty personnel matters.

## J. Guidelines

As a guideline, the total FTE of non-tenure-track faculty with the job titles of college instructor, college assistant professor, and college associate professor shall not exceed 25 percent of the total FTE for tenured, tenure-track, and non-tenure-track faculty on the main campus (community colleges excluded). Distinction will be made, if possible, between teaching and non-teaching non-tenure-track faculty in any given monitoring period.

## K. Monitoring

During each fall and spring semester the executive vice president and provost shall provide the following data to the chair of the Faculty Senate: The number of individuals employed by the university holding academic rank by headcount and FTE, by contract type (tenured, tenure-track, non-tenure-track), by job title and rank for each academic rank unit on the main campus, for each of the community colleges, and for all other organization units. Where these numbers include individuals whose primary employing unit is different from the academic rank unit, these data will be footnoted appropriately. The chair of the Faculty Senate will present these data to the Committee on Committees for analysis and monitoring with respect to the above guidelines.

## L. Exempt Employees Hired as Part Time Faculty

Exempt employees who wish to teach a university class for remuneration may do so if the class meets outside regularly scheduled working hours (normally 8 a.m. to 5 p.m., Monday through Friday) and approval has been obtained from the employees supervisor and the Dean, Vice President or Campus President. Exempt employees teaching a course for remuneration during his/her regular working hours is normally inappropriate, and rather, a percentage of the person's regular salary should be paid by the beneficiary unit for the duration of the teaching service. (*See* guidelines under **ARP 6.92 – Faculty Consulting** and **ARP 7.30 Tenure-Track and Tenured Faculty – Salary Adjustments**.)

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 6 | HR - Hiring, Work Rules and Assignments

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 10/09/2018

## Related

**Cross-Reference:**
**ARP 3.25 - Discrimination, Harassment and Sexual Misconduct on Campus**

**ARP 6.50 - Faculty Credentials Required of NMSU Instructors of Record**

**ARP 6.92 - Faculty Consulting**

**ARP 7.30 - Tenure Track and Tenured Faculty – Salary Adjustments**

**ARP 10.50 - Faculty Alleged Misconduct Investigation, Discipline, and Appeals Processes**

**ARP 10.60 - Faculty Grievance Review and Resolution**

**Revision History:**

10/09/2018 Amendment approved by Chancellor
2017 ARP Recompilation, formerly Rule 5.15.40 A–I & L–O
06/20/2013 Amendment approved by Board of Regents
01/28/2013 Proposition approved by Board of Regents
05/06/2011 Amendment adoption approved by Board of Regents
07/20/2010 Amendment adoption ratified by Board of Regents
02/09/2010 Amendment approved by Administrative Council
07/29/2009 Proposition ratified by Board of Regents
07/14/2009 Proposition adopted by Administrative Council
10/07/2007 Amendment ratified by Board of Regents

---

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 6.41 – Joint Academic Appointments

arp.nmsu.edu/6-41

## A. Written Agreement

At the time of joint appointments, a written agreement is signed by the faculty member and administrative heads of the participating departments. The agreement entails the nature and extent of reciprocal commitments between the faculty member and each academic department. The agreement serves as a guide in the evaluation process and defines the role of all parties in that process.

## B. Role of the dean of the Graduate School

The dean of the Graduate School coordinates and ensures equity in the evaluation of joint appointees.

## C. Procedures

1. All joint faculty are assigned to one college for administrative purposes. This college is responsible for initiating all forms, but signatures of both deans and both department heads are required on all forms.
2. A copy of the joint appointment agreement will accompany formal appointment papers forwarded to the executive vice president and provost for action.
3. A mutually agreed-upon statement of goals for the faculty member is prepared at the beginning of each annual evaluation period. These goals serve as the evaluation criteria for the period. The goals statement is arrived at by consultation between the faculty member and the department heads involved.
4. The faculty member submits duplicate statements of achievements (*g.*, faculty evaluation forms) to the department heads at the end of the evaluation period.
5. The department heads, in consultation, prepare a single evaluation and recommendation to be forwarded to the appropriate dean or deans.
6. Recommendation at the college level is made in consultation with department heads and deans involved in the joint appointments.

7. The time periods for all steps in the evaluation process are the same as those set by the executive vice president and provost for all faculty.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 6 | HR - Hiring, Work Rules and Assignments

**Rule Administrator:** Executive VP and Provost

**Last Updated:** Not Available

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 5.15.30

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 6.42 – Post-Doctoral Appointments

arp.nmsu.edu/6-42

## A. Postdoctoral Appointment Defined

A postdoctoral appointment is a classification for those individuals who are exemplary scholars, who have recently been awarded a doctoral degree, and who wish to continue their education and research experience under the direction of a university faculty member.

## B. Recruitment Considerations

The recruitment process for a post doctoral appointment shall include consideration of any individual who expresses an interest in such an appointment. Advertising on a local, national or international basis is optional.

## C. Terms of Appointment

Appointments contemplate 1.0 FTE employment for at least one (1) year, renewable annually, and not to exceed a total of five (5) years, absent an exceptional circumstance. Exceptions to reduce FTE percentage, to not less than .50 FTE, or to deviate from the minimum term of one (1) year or the maximum term of five (5) years, will require the written approval from the appropriate dean or equivalent administrator and the vice president of research. The annual term of employment shall be specific in the appointment letter or in other Office of Human Resource Services documentation. The postdoctoral appointee shall receive the benefits and privileges associated with regular employment, including leave accrual.

## D. Annual Renewal Required (Lack of Renewal Confirms End of Term Appointment)

Sixty (60) days advance notice of annual renewal shall be given. A failure to give timely notice shall not prevent a renewal, but lack of notice of annual renewal constitutes confirmation of the end date specified on the annual appointment letter or other Office of Human Resource Services documentation.

## **E.** Termination of Employment Prior to End of Appointment Term

An annual post doctoral appointment may be terminated prior to the end of the termination date specified in the appointment letter or other Office of Human Resource Services documentation for two reasons:

1. For just cause, in accordance with the university's procedures governing involuntary termination of regular faculty; or
2. Loss or reduction in funding affecting the position.

## F. Grievance Rights

If it becomes necessary for an individual holding a post doctoral position to file a grievance, the faculty grievance procedure at **ARP 10.60 Faculty Grievance Review and Resolution** will apply. If the post doctoral appointee's complaint involves unlawful discrimination, then **RPM 3.25, Equal Opportunity and Prohibition of Development Opportunities** and **ARP 3.25 – Discrimination, Harassment and Sexual Misconduct on Campus** or other OIE protocols will govern.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 6 | HR - Hiring, Work Rules and Assignments

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 06/20/2013

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 5.15.50

06/20/13 Amendment approved by Board of Regents

10/29/10 Amendment approved by Board of Regents

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 6.43 – Graduate Faculty Appointments

arp.nmsu.edu/6-43

## PART 1: RESPONSIBILITY FOR GRADUATE PROGRAMS

The ultimate responsibility for the quality of the graduate program resides in the graduate faculty, individual departments offering graduate work, and the cognizant dean.

## PART 2: ADMINISTRATION OF GRADUATE SCHOOL REGULATIONS

The dean of the Graduate School is responsible for the administration of the Graduate School's regulations.

## PART 3: APPOINTMENT TO GRADUATE FACULTY

Staff members qualified to perform the functions of the graduate faculty are nominated by the heads of their departments for approval by the cognizant dean and the dean of the Graduate School. Before an individual is appointed to the graduate faculty, evidence of creative activity, in addition to the doctoral dissertation, is required. In implementing this approach, the department heads, the deans and the dean of the Graduate School will review all members of the graduate faculty in their colleges and invoke the review clause on individuals not meeting the minimum requirements.

The Graduate Council shall maintain a standing committee on Graduate Faculty Appointments comprised of three senior graduate faculty currently serving on the Graduate Council. The standing committee on Graduate Faculty Appointments shall review and make recommendations to the dean of the Graduate School on appointment of faculty nominees to the graduate faculty. This standing committee on Graduate Faculty Appointments also shall review appointment criteria as needed. Approval will be granted in recognition of the staff member's active interest in graduate work as demonstrated by continual

study, creative activity, and successful teaching. Appointment to the graduate faculty will normally require that the individual have an earned doctoral degree.

## PART 4: REVIEW AND RENEWAL OF GRADUATE FACULTY DESIGNATION

The qualifications of each new member of the graduate faculty will be given comprehensive review by the department head, cognizant dean, and the dean of the Graduate School at the end of 3 years. The qualifications of each graduate faculty member will be reviewed every 3-5 years by the department head, cognizant dean, the Graduate Council standing committee on Graduate Faculty Appointments, and the dean of the Graduate School.

## PART 5: QUALIFICATIONS FOR GRADUATE COURSE TEACHING ASSIGNMENTS

Selection of instructors to teach courses at the 450-499 level is left to the department head and college dean; however, such persons must have at least a master's degree. Any exceptions to this policy, rules or procedures must have prior written approval of the dean of the Graduate School. Graduate students may not assign grades to other graduate students in courses numbered above 450.

Selection of individuals to teach courses numbered 500 and above is left to the department head and the college dean. The individual must have an earned doctorate, or a master's degree with extensive experience, and have evidence of creative activity. Any exceptions to this policy, rules or procedures must have the prior written approval of the dean of the Graduate School. (See next section for 600 level courses.)

## PART 6: QUALIFICATIONS FOR GRADUATE COMMITTEE SERVICE

Members of the graduate faculty chair all graduate committees, direct master's theses, direct doctoral dissertations, teach 600-level courses, serve as representatives of the dean of the Graduate School, serve on educational specialists' exams, and serve on doctoral exams. Any exception to this policy, rules or procedures must be approved in writing by the dean of the Graduate School.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 6 | HR - Hiring, Work Rules and Assignments

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 05/01/2018

## Related

**Cross-Reference:**
**Revision History:**

10/21/2018 Recompiled; former ARP 7.51 deleted as duplicative
05/01/2018 Approved by Graduate Council
2017 Recompilation, formerly Rule 5.15.20

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 6.50 – Faculty Credentials Required of NMSU Instructors of Record

arp.nmsu.edu/6-50

## PART 1: PURPOSE

As authorized by **RPM 6.10**, this Rule establishes the minimal faculty qualifications required of NMSU Instructors of Record.

## PART 2: DEFINITIONS

### A. Subfield

A component of the discipline in which the instruction is delivered. The focus is on the course being taught and the general appropriateness of the Instructor of Record's qualifications with reference to such courses. The key consideration is whether a degree in the field or a focus in the specialization appropriately matches the courses the Instructor of Record would teach in accordance with the conventions of the academic field.

### B. ABD

All But Dissertation

### C. Instructor of Record

Includes employees hired into any faculty position, including full and part-time faculty, tenured, tenure-track and non-tenure track faculty, temporary faculty, faculty teaching dual credit and credentialed graduate students. Non-credentialed teaching assistants enrolled in a graduate program, whose teaching is supervised by faculty, for the purposes of this Rule are not considered to be an Instructor of Record, but will be listed as the Instructor of Record in the schedule of classes, and considered as such for all other purposes.

### D. NMSU Entity

NMSU Entity, sometimes also referred to as “unit”, is a general term which may refer to a college, an academic department or any other individual unit within the NMSU System, including but not limited to agricultural experiment stations

### E. One Level Above

One Level Above refers to the degree being earned by the student and the degree Instructor of Record’s degree credentials. For this rule, One Level Above for occupational education/career and technical education is a bachelor’s degree. For non-occupational undergraduate courses, One Level Above is a master’s degree. In graduate courses, One Level Above is the terminal degree that field. (***See Part 3. B. for details and exceptions.*** )

## PART 3: REQUIREMENTS RELATING TO FACULTY QUALIFICATIONS

Each NMSU Entity will ensure that its Instructors of Record have the academic preparation, the appropriate discipline, the expertise and sufficient training and/or equivalent professional experience in the area in which they teach. All Instructors of Record must meet or exceed the minimal institutional qualifications set forth in this Rule, as well as applicable requirements of accrediting bodies and state agencies. NMSU acknowledges that in order to maintain Higher Learning Commission (HLC) accreditation, the institution must be compliant with HLC minimal standards relative to faculty qualifications.

### A. Teaching and Learning/Quality, Resources and Support

The institution will provide:

1. An adequate number of, and appropriately qualified, Instructors of Record and staff to provide high-quality educational programs (including dual credit, contractual and consortial programs), instruction and student services.
2. Sufficient number and continuity of Instructors of Record to carry out classroom and non-classroom roles, including oversight of curriculum and expectations for student performance, establishment of academic credentials for instructional staff and involvement in assessment of student learning.
3. Sufficient processes and resources for Instructors of Record to remain current in their disciplines, adept in their teaching role, and engaged in ongoing professional development.

## B. Teaching and Learning/Qualifications and Credentials Required of the Instructors of Record

1. Primary indicators of Instructor of Record qualifications are credentials earned. Credentials refer to degrees earned that establish the Instructor of Record's credibility as a content expert and thus competence to teach college-level content. Specifically, degrees and certificates from accredited institutions or otherwise reputable and established institutions of higher education and other areas of professional education and training provide evidence of appropriate credentialing.
2. Degree completion in a specific field enhances the depth of subject matter knowledge. All Instructors of Record should have completed a program of study and possess a degree in the discipline or Subfield (as applicable) in which they teach and/or for which they develop curricula, with coursework at least One Level Above that of the courses being taught or developed. In terminal degree programs, an Instructor of Record should possess the same level of degree for which they are providing instruction. In some cases, extensive and appropriate professional or research experience may be used to establish equivalent tested experience that may be considered in determining qualification to teach particular content.
3. Instructors of Record teaching any non-occupational undergraduate courses, including general education and dual credit, will hold a master's degree or higher in the discipline or the Subfield. If the Instructor of Record holds a master's or higher degree in a discipline or Subfield other than that in which they are teaching, the Instructor of Record must have completed a minimum of 18 graduate credit hours in the respective discipline or Subfield. A Master of Education degree or similar broad based degree will be considered appropriate qualification for Instructors of Record when it can be demonstrated that the content of that Instructor of Record's degree is sufficiently related to the discipline of the course (***See Subsection B. 8. below***). High school teaching experience alone is not acceptable as evidence for the content knowledge needed for discipline-specific college courses, or for discipline-specific experience.
4. Instructors of Record who do not have the minimal qualifications as described above, must meet exception criteria, and receive *prior approval* to begin or continue teaching. (***See Subsections B. 7. and B. 8. below*** ).
5. Instructors of Record teaching occupational courses (e.g. in career and technical education programs, college-level certificate programs, and occupational associate degree programs) should hold a bachelor's degree in the field and/or a combination of education, training and tested experience. In these cases, professional certificates and/or industrial experience will be identified as appropriate qualifications. **(*See***

***Subsections B. 7. and B. 8. below*)**. It is appropriate to consider training and tested experience for instruction of technical and occupational courses. Such consideration is particularly relevant in fields where the associate's degree is the terminal degree, or where there is no degree beyond a high school diploma. Qualifications for occupational courses are applicable even in instances where technical/occupational courses may transfer into a bachelor's degree program.

6. Instructors of Record teaching in a graduate program should hold the terminal degree determined by the discipline and have a record of research, scholarship or achievement appropriate for the graduate program; or have a master's degree, equivalent scholarly experience and creative activity appropriate for the graduate program in which they teach. ***(See Subsection B. 7. below).*** In addition, Instructors of Record guiding doctoral education should have a record of scholarship and preparation to teach at the doctoral level. Research and scholarship should be appropriate to the program in which they teach, as determined by the program faculty.
7. **Standardized Discipline Specific Qualification through Equivalent/Tested Experience**: Instructors meeting minimal levels of qualification based on factors other than minimal degree thresholds must meet the minimal thresholds of equivalent experience/research pre-determined by program faculty, approved through the department head/equivalent, dean/equivalent, community college Vice President for Academic Affairs and Executive Vice President and Provost.
8. **Individual Discipline Specific Qualification through Equivalent/Tested Experience**: Exceptions to the requirement to meet the pre-determined and approved minimal qualifications may be granted in accordance with the steps below, on a case by case basis. Exceptions will be granted only when equivalent expertise and knowledge has been clearly established.
    a. Department head/equivalent must submit a written request and justification for exceptions, based on the candidate's qualifications, to the college dean or community college Vice President for Academic Affairs.
    b. If the dean/equivalent or community college Vice President for Academic Affairs supports the request, they must forwarded the request, expressing their support for the hire and justification to the Executive Vice President and Provost, who makes the final decision on all requests.
    c. Documentation for individual exceptions, including the original credentials, will be maintained in Human Resource Services (HRS). Original documents from community college hires will be maintained by the appropriate community college's Human

Resources office, with copies maintained at NMSU-Las Cruces HRS.

# **PART 4: ROLES AND** RESPONSIBILITIES

## A. Executive Vice President and Provost

The Executive Vice President and Provost is ultimately responsible for the verification and validation of the credentialing requirements for all Instructors of Record within the NMSU System. This is accomplished through coordination with, and in reliance upon, the senior academic administrators at each campus (academic deans and community college vice presidents for academic affairs), and with assistance from their respective HR offices.

## B. Academic Dean/ Division Dean through Community College Vice President Academic Affairs

During the hiring or renewal process, the academic dean, or division dean through the community college Vice President of Academic Affairs, are responsible for validation of Instructor of Record credentialing documents and for ensuring that qualifications align with course assignments for their college or community college division. Prior to an Instructor of Record's appointment with NMSU, the academic dean or community college division dean examines and approves the prospective Instructor of Record's credentials to ensure compliance with institutional and accreditation requirements. The academic dean or the division dean, through their respective community college vice president of academic affairs, will forward verified documentation, including official transcripts and translation and evaluation of foreign transcripts as needed, to HR.

## C. Academic Department Head or Community College Equivalent

Prior to assignment of an Instructor of Record, the department head or equivalent at the community colleges examines the prospective Instructor of Record's credentials to verify that the Instructor of Record meets the position requirements. The qualifying degree is the primary indicator that qualifies the Instructor of Record to teach a particular course. If an exception is being sought for a particular course new to the faculty member, the department head or equivalent must forward the documentation required for exceptions through the dean or community college Vice President for Academic Affairs to the Executive Vice President and Provost for approval prior to the course being taught.

## D. Instructors of Record

All Instructors of Record are required to provide appropriate documentation to verify their credentials.

1. Credentials include but are not limited to: resume/curriculum vitae, official transcripts, appropriate licenses or certifications, verification of work related to teaching experience and if required, documentation of equivalent/tested experience to justify alternative credentialing.
2. The cost to obtain official credentials (including necessary translation and evaluation of transcripts from institutions outside of the United States) and copies of licenses and certifications must be borne by the prospective faculty member.
3. Instructors of Record who are teaching in disciplines that require licensure and/or certification are responsible to provide documentation of licensure and certification to the department head or equivalent community college division dean. It is the responsibility of the Instructor of Record to acquire and maintain discipline-required licensure(s)/certification(s).
4. The institution may request updated documents from its faculty members to maintain credentialing records.

### E. ABD Instructors of Record

ABD Instructors of Record must provide an official transcript or other equivalent credentials with their terminal degree posted within one (1) year of appointment.

### F. Human Resources (HR)

The Human Resources office is each institution's designated repository for faculty credentials, and is responsible for maintaining official documentation of faculty credentials (including official transcripts and other documentation relevant to the faculty member's teaching qualifications). Prior to new appointments and subsequent with continued appointments, the dean will forward all such documents to HR. The dean will be notified of any discrepancies or incomplete documentation. In such cases the dean must submit the required credentialing documents for all Instructors of Record as soon as possible, and no later than the university's official census day.

## PART 5: PROCEDURAL GUIDELINES

### A. Requirement for Official Transcripts or Other Equivalent Credentials

It is the responsibility of each faculty member/Instructor of Record to provide official transcripts/credentials to NMSU.

1. Transcripts that are classified as unofficial will not be accepted in lieu of official transcripts. NMSU criteria for determining the authenticity of transcripts and other credentials includes:
    a. The issuing institution's official seal;
    b. Signature of the appropriate authorizing agent, preferably the institution's registrar;
    c. The institution's official letterhead or stationary;
    d. The institution's watermark or other identifier;
    e. The date of issue.
2. Credentials from institutions outside of the United States must be translated and evaluated for equivalency by either a reputable external agency, or if available, by a qualified internal NMSU employee. Final approval must be granted by the Executive Vice President and Provost or designee.

## B. Transcripts or Equivalent Credentials from Non-Accredited Institutions

Individuals whose qualifying degree is from a non-accredited institution in the United States (U.S.) will be considered on a case-by-case basis. When hiring such individuals, additional criteria must be considered, including the degree issuing institution's reputation, whether the institution is accredited or recognized by other agencies or organizations, and a thorough evaluation of the candidate's course work and experience. If such a hire is deemed desirable, the department head or equivalent must fully evaluate the faculty member's educational background and experience and document the findings in a memorandum to the dean. If the dean agrees that the individual possesses the appropriate academic preparation and experience, the dean or equivalent will forward supporting documentation with the request to hire.

## C. Additional or Updated Information Requests

NMSU may require an Instructor of Record to provide additional or updated documentation; it will be the responsibility of the Instructor of Record to respond in a timely manner.

## D. Documentation Required Pending Receipt of, or In Lieu of, Official Credentials

On rare occasion for circumstances which inure to the benefit of the students and not convenience to administration nor to the Instructor of Record, an Instructor of Record may be permitted to commence teaching prior to receipt

of official credentials and/or an official evaluation of such credentials, *provided* that unofficial credentials have been provided and have otherwise been authenticated.

1. In such cases, a copy of the request for official credentials must be included in the Instructor of Record's qualifications documentation.
2. In the interim, the hiring department head or equivalent will verify the Instructor of Record's degree and major field of study by contacting the awarding college/university.
3. The department head or equivalent will also attempt to confirm receipt of the credential request, and will document if there is any type of hold on the release of the credentials.
4. When the official credentials arrive, they will be forwarded to HR and placed in the Instructor of Record's file.
5. Official credentials must be submitted to HR no later than the official census day of the hiring semester.
6. In cases where an Instructor of Record's degree granting institution does not provide official credentials, the Executive Vice President and Provost will render a determination after considering the academic record presented and other relevant facts and evidence pertaining to an Instructor of Record's credentials and qualifications.

### E. Consequences for Non-Compliance with this Rule

1. If after the university's official census day, all required documentation relating to faculty credentials, including but not limited to the official transcript and the external evaluation of international transcripts (if applicable), has not been received by HR, the Instructor of Record will be deemed to have not met credential requirements, and will not be eligible for reappointment the following semester.
    a. If the documentation is received after census day, the candidate may be reconsidered for eligibility for reappointment, depending upon the circumstances for the delay in receipt of credentials, at the discretion of the Executive Vice President and Provost.
2. Because proper credentials are a condition of employment, NMSU reserves the right to remove an Instructor of Record from a teaching or other academic assignment immediately if evidence is discovered which substantiates dishonesty materially affecting the Instructor of Record's purported academic record. (***See*** **ARP 10.50**)

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 6 | HR - Hiring, Work Rules and Assignments

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 03/14/2017

## Related

**Cross-Reference:**
**RPM 6.10 - Faculty and Academic Administrators**

**ARP 10.50 - Faculty Alleged Misconduct Investigation, Discipline, and Appeals Processes**

**Revision History:**

2017 Recompilation, formerly Rule 5.14
03/14/2017 Rule approved by Chancellor

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 6.51 – Qualification for Faculty Appointment, Generally

arp.nmsu.edu/6-51

## A. General Qualifications for Appointment (Main Campus)

Common elements to be considered in appointment, differing only in degree in all ranks, are as follows:

### 1. Teaching

This element is difficult to define precisely, but is commonly considered to include the teacher's knowledge of the field; awareness of development in the field; skill in arousing interest and evoking responses in students; skill in stimulating students to think critically, to understand the interrelationship of fields of knowledge and the application of knowledge to human problems; skills in integrating domestic and international knowledge and insights into class content; and skill in raising students' awareness about the domestic and international social, political, economic, and ethical implications of their courses of study.

### 2. Research

This element is composed, in part, of the person's research or other creative work that indicates professional merit and interest. The results of this activity will find expression normally through accepted channels or media in the respective professional fields or in the person's teaching. Teaching and research are ordinarily closely related; it is difficult to comprehend how a person can teach well without having firsthand understanding of how the knowledge of the field is discovered. The research performance of faculty will be based on domestic and/or international scholarly activity. Annual performance evaluation of any faculty member will recognize that success in research may require long-term efforts. Promotion and tenure and annual performance raises will give equivalent consideration to research effort and success, whether domestic or international.

### 3. Service

This element includes the person's general contributions to the organization and development of the university, and services to any local, state, national, or international agency or institution needing the specific benefits to be derived from the person's professional knowledge and skills.

## B. Specific Qualifications for Appointment (Main Campus)

In the following statements of required time in each rank, IT SHOULD BE EMPHASIZED THAT THE PERIODS STATED ARE TO BE CONSIDERED AS MINIMUM AND NOT AS MAXIMUM, UNDER NORMAL CIRCUMSTANCES. It is recognized that the time served in a rank at another institution should be taken into consideration. It is also recognized that the evidence of competence differs for various fields, to some extent, and standards of judgment cannot be rigidly uniform.

### 1. JUNIOR RANKS

#### a. Instructor

This rank should be given to persons with advanced training who have demonstrated scholarly/creative ability. Usually, the individual will not yet have demonstrated ability to do both teaching and research independently. An instructor must have knowledge of the particular course materials and should have some intellectual vision; but need not be expected to have acquired a significant understanding and original point of view or philosophy of the general subject. In addition to such general considerations, as stated above, the specific degree requirements for this rank will normally be the master's degree or the equivalent, and except under unusual circumstances the instructor will be encouraged to be studying toward a terminal degree.

#### b. Assistant Professor

To be considered for this rank, a person must have demonstrated ability in the field. It is strongly believed that a relationship exists between teaching and research, and that a good teacher or researcher must constantly remold the materials of the courses or projects in the light of new knowledge derived from the person's own creative scholarship as well as that of others. An assistant professor may be expected to have a thorough command of the subject matter of some segment of the general field of the discipline, in addition to a comprehension of the whole. In addition to such general considerations as stated above, specific degree requirements for advancement or promotion to the rank of assistant professor and, of course, applicable to the senior ranks as well, NORMALLY will be the doctor's degree. Outstanding experience and recognition in the profession outside the academic field may be considered as the equivalent of the degree requirement.

## 2. SENIOR RANKS

Appointment or promotion to either senior rank should represent an implicit prediction on the part of the department, college, and the university that the individual so appointed will make sound contributions to teaching and learning during the remainder of the individual's life. Senior rank status should occur only after careful investigation of the candidate's promise in scholarship, teaching, research, leadership, and learning. By this statement it is meant that serious attention must be given to the caliber of the candidate's professional stature, for this will probably be the key factor in determining the extent to which past performance in teaching and creative work may be expected to carry on through continuing and enlarged contributions. Services rendered to communities and agencies or organizations in the person's professional capacity shall be considered in assessing qualifications for advancement to senior ranks.

### a. Associate Professor

This person's views contribute to departmental policy. An associate professor should have competence and mature outlook over a fairly large part of the whole field. To be considered for this rank a person should expect to serve for at least 4 years as an assistant professor under normal circumstances. A candidate for an associate professorship is expected to have demonstrated capacities in the lower ranks and should offer evidence that teaching and research have kept abreast of times in method and subject matter; that a greater degree of maturity has been attained and that there has been a retention of interest in competent teaching and research. Furthermore, the candidate must have shown evidence of productivity and competent scholarship beyond that completed for the degree of the doctorate.

### b. Professor

Appointment of individuals to professorships is obviously the most critical step in determining the future of the academic caliber of the university. There should, therefore, be clear understanding of the functions and qualifications of individuals in this rank. A professor through teaching, creative activity, and service should have demonstrated substantial command of the whole field, sound scholarship, and a mature view of the discipline. Appointment or promotion to professor should not be considered to be forthcoming merely because of years of service to the university (it should not be expected based on any number of years as an associate professor) or because a continuous contract is achieved. Rather, a person being considered for a professorship is expected to have maintained all of the qualities and conditions required for tenure and the associate professor rank. In addition, a professor should exhibit special stature in the discipline, leadership and substantial strength in all areas-teaching, creative activity, and professional service. In the recommending procedures the department head and the faculty member shall submit information as follows:

### i. Special Stature in the Discipline:

- Teaching Performance: Data indicating performance, including innovation, enthusiasm, and contributions to activities designed for the improvement of instruction. Peer and student evaluation may be useful ingredients in determining teaching performance.
- Creative Activity: Lists of publications, exhibits, recitals, etc. Peer evaluation both on and off campus. The direction of graduate students where appropriate to the individual's discipline.
- Professional Service: Information showing involvement in state, regional, national, and international groups within the field and contributions to the university. Objective data showing prestige and recognition among the practitioners of the discipline.
- Leadership: Information showing initiative, perseverance, and originality and skills in human relations.

Initial appointments for faculty employed with the rank of professor may also include continuous contract.

## C. General Qualifications for Appointment (Community College System)

The following qualifications are listed in the order of their relative importance: teaching is more important than professional service; professional service is more important than other service; other service is more important than research. referendum

### 1. Teaching

This element is commonly considered to include the teacher's knowledge of the field; awareness of and the application of developments in the field; skill in arousing interest and evoking responses in students; skill in stimulating students to think critically, to understand the interrelationship of fields of knowledge and the application of knowledge to human problems; and skill in awakening students to a realization of the social, political, economic, and ethical implications of their study.

### 2. Professional Service

This element includes, above all, the faculty member's service with respect to the organization, development, and welfare of the community college and the university. This element also includes service to any individual or group needing the specific benefits of the faculty member's professional knowledge and skills.

### 3. Other Service

This element allows a faculty member to be recognized for service to the general welfare of the community which is interrelated with the welfare of the community college.

### 4. Research

Research or other creative work is not required at the community colleges. However, those faculty members who produce research and/or creative work should be encouraged, and such work should be considered for appointment, promotion, and tenure considerations.

The academic credentials of all community college instructors will be reviewed by the community college program coordinators (when appropriate), division heads, and the chief instructional officer to meet the guidelines established by the main campus departments. Instructors must also be approved by the campus executive officer and the executive vice president and provost.

## D. Specific Qualifications for Appointment (Community College System)

In the following statements of required time in each rank, it should be emphasized that the periods stated are to be considered as minimum and not as maximum, under normal circumstances. It is recognized that the time served in a rank at another institution should be taken into consideration. It is also recognized that the evidence for various fields, to some extent, and standards of judgment cannot be rigidly uniform.

### 1. JUNIOR RANKS

#### a. Instructor

This rank should be given to persons with the necessary education and/or experience to teach within the community college concept.

#### b. Assistant Professor

To be considered for this rank, a person must have demonstrated the ability to teach effectively in the person's field. It is strongly believed that a good teacher must constantly remold the course or project materials in light of new knowledge derived from the teacher's own creative scholarship, as well as that of others. To be considered for this rank, a person should expect to serve at least 3 years as an instructor under normal circumstances. An assistant professor may be expected to have a thorough command of the subject matter of some segment of the general field of the discipline, in addition to a comprehension of the whole.

## 2. SENIOR RANKS

Appointment or promotion to either senior rank should represent an implicit prediction on the part of the community college that the individual so appointed will make sound contributions to teaching and learning during the remainder of the individual's life. It should be made only after careful investigation of the candidate's promise in teaching, professional service, other service, and, if applicable, research and/or creative service. By this statement, it is meant that serious attention must be given to the caliber of the candidate's professional stature, for this will probably be the key factor in determining the extent to which past performance in teaching and service may be expected to carry on through continuing and enlarged contributions.

### a. Associate Professor

An associate professor occupies a position adjunct to that of the professor. This person's views contribute to community college policy. An associate professor should have competence and mature outlook over a fairly large part of the professor's whole field. A candidate for an associate professorship is expected to have demonstrated capacities in the lower ranks and should offer evidence that the candidate's teaching has kept abreast of times in method and subject matter, that a greater degree of maturity has been attained, and that there has been a retention of interest in competent teaching and service. To be considered for this rank, a person should expect to serve for at least 4 years as an assistant professor under normal circumstances.

### b. Professor

Appointment or promotion of individuals to professorships is obviously the most critical step in determining the future of the community college system and the university. There should, therefore, be a clear understanding of the functions and qualifications of individuals in this rank. A professor through teaching and service should have demonstrated substantial command of the professor's whole field, sound scholarship, and a mature view of the discipline. Promotion to professor should not be considered to be forthcoming merely because of years of service to the community college and the university (it should not be expected based on any number of years as an associate professor) or because a continuous contract is achieved. Rather, a person being considered for a professorship is expected to have maintained all the qualities and conditions required for tenure and for the rank of associate professor. Additionally, a professor should exhibit special stature in the professor's discipline, in leadership, and in both teaching and service.

# Details

**Scope:** NMSU System

**Source:** ARP Chapter 6 | HR - Hiring, Work Rules and Assignments

**Rule Administrator:** Executive VP and Provost

**Last Updated:** Not Available

## Related

**Cross-Reference:**
*(See Also Rule 5.14 - Faculty Credentials Required of NMSU Instructors of Record)*

**Revision History:**

2017 Recompilation, formerly Rule 5.15.60

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 6.60 – Faculty Assignments – General

arp.nmsu.edu/6-60

It is the policy of the university to provide conditions under which high quality instruction, research and service may be expected to occur. The faculty and administration recognize that quality education is based on and will occur as the result of interaction and contact between professionally competent faculty and adequately prepared students. Statements in this manual which are concerned with assignment of faculty load and with the award of academic credit are expressed generally in terms of the amount of contact occurring between faculty and students. In practice, many academic efforts, having little or nothing to do with the amount of contact *per se*, are nevertheless quantified and rewarded in terms of the credit hours. Such cases are covered by prior approvals among students, faculty and administrators. This Rule is based on the following:

## A. Teaching

Refers to activities related to courses given in a current term, such as meeting scheduled classes, grading, preparing lectures, evaluating students, reading student papers, academic advising, supervising teaching assistants, and supervising laboratories. Ordinarily, scheduled class meetings will equal at least 750 minutes per semester per credit hour.

Refers to the statewide non-credit teaching activities of members of the Cooperative Extension Service, and other university faculty members, such as conducting seminars, meetings, workshops and consultations with ranchers, farmers, businessmen, homemakers, community leaders and other citizens of the State, and the preparation of educational materials-bulletins, newsletters, news articles, radio and television programs, and self-teaching programs.

## B. Research and Other Creative Endeavors

Refers to activities in the faculty member's area of responsibility related to a specific project, such as performing a professional skill, writing or developing research proposals, statistical consulting, writing articles and/or books and/or reviews, creating a new art form(s), performing departmental and/or sponsored research, giving recitals, maintaining an artistic skill.

## C. Professional and Public Service

Refers to activities related to maintaining expertise in a professional field and activities performed to benefit the community outside the institution, respectively. Specific activities in this category include attending professional meetings and/or seminars, editing a journal, serving as an officer in a professional society, consulting, performing professionally as in plays or orchestras, participating in lectures or seminars for the public, and involving oneself in community activities such as civic clubs, agricultural or urban extension services.

## D. Internal University Activities

1. General contact with students, such as: counseling; preparing recommendations; participating in social interaction; recruiting students; sponsoring student organizations; meeting with parents; attending student recitals; coaching intramural or intercollegiate athletics; directing the band, orchestra, student plays, debate team, or other student groups.
2. Committee participation, such as: attending departmental meetings; Faculty Senate; promotion and tenure committees; planning committees; or admission committees.
3. Administrative duties, such as: performing the duties of a department head, dean, vice president, or any other administrator; keeping records; preparing minutes; writing and answering memoranda; assigning faculty course loads; preparing budgets; gathering data; helping during registration; interviewing candidates for faculty positions; advising on library purchases; escorting visitors.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 6 | HR - Hiring, Work Rules and Assignments

**Rule Administrator:** Executive VP and Provost

**Last Updated:** Not Available

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 5.20.20

07/29/09 Adoption of amendments approved by Board of Regents

07/14/09 Amendment approved by Administrative Council

11/11/08 Amendment approved by Administrative Council

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 6.61 – Assignments – Teaching Load

arp.nmsu.edu/6-61

## A. Purpose

Faculty members perform a wide variety of tasks determined by the requirements of their discipline and by the mission of the university. Accordingly their workload will vary from individual to individual and over time for a particular individual. The purpose of this Rule is to establish a fair and equitable allocation of workload among faculty taking into account the interests of the faculty and the needs of the university. Recognizing the complex role played by faculty in the university setting, the primary responsibility for establishing workloads shall rest with the departments or equivalent administrative unit.

## B. Scope of Application

The rules set out here apply to faculty time financed from instruction and general (I & G) funds. Faculty time not financed by I & G funds is not covered by these rules. Faculty time partially funded from I & G shall be prorated.

## C. Teaching Load, Generally, for NMSU LC Faculty

A faculty member employed on the Las Cruces (Main) Campus budgeted exclusively from I&G funds will normally be responsible for the equivalent of teaching 12 credits per semester. The faculty member may be expected to participate in some scholarly and creative activity, professional and/or public service, or internal service to the university. Significant work of this kind reduces the faculty member's responsibility for formal instruction.

## D. Teaching Load, Generally, for Community College Faculty

The teaching load for community college faculty members will usually be the equivalent of 15 credits a semester or from 27 to 30 credits an academic year The teaching load shall be prorated for short courses or courses taught over part of a semesters.

## E. Equitable Distribution of Workload

1. Executive Administration: The executive vice president and provost and Chancellor shall seek to allocate faculty resources among departments or equivalent administrative units, taking account of internal and external constraints, so as to distribute workload in a fair and equitable manner. Factors that may be considered in allocating resources include accreditation, workloads at peer institutions, national disciplinary norms, and retention of faculty, the needs of new programs, credit hour production, legislative mandates, and other factors.
2. Dean or Equivalent: Within each college or equivalent unit, the college dean or equivalent administrator shall seek to allocate faculty resources within their college or equivalent unit in order to achieve a fair and equitable workload. When inequitable workloads arise, it shall be the responsibility of the dean or equivalent administrator to rectify the inequality.

## F. Departmental Workload Policy

1. Departments and equivalent units will specify how they determine teaching loads. Departmental or equivalent unit workload policy will be 1) developed by the department faculty in collaboration with the department head and approved by the dean or equivalent administrator, 2) contained in written departmental guidelines, and 3) distributed to all faculty in the department. Department guidelines shall clearly specify the method by which teaching load is distributed. The dean or equivalent may ask for revisions to the departmental workload policy.
2. In determining teaching load, the departmental or equivalent unit workload policy shall consider the impact of: courses with a lab component; career path of the instructor; tenure and promotion; workloads at peer institutions; national disciplinary norms; faculty retention; relative proportion of graduate and undergraduate instruction; supervision of master's theses or doctoral dissertations; student advising and retention activity; mentoring activity, individual faculty member's scholarly and creative productivity; service productivity; new preparations; method of course delivery; class size; help from graduate assistants; administrative and/or service assignments; team teaching; and methods of grading. Given the importance of graduate programs to the mission of the university, special consideration must be

given to support of graduate programs. Other factors specific to particular departments or disciplines may also be considered.

## G. Annual Determination of Individual Faculty Teaching Load/Right to Appeal

The teaching load for each faculty member will be determined annually by the department head or equivalent administrator through a process that follows established departmental or equivalent unit policy and involves an element of negotiation. The agreed upon teaching load for each faculty member will be articulated in writing and signed by the faculty member and the department head or equivalent administrator, and shall be included in the faculty member's personnel folder. If agreement on these responsibilities cannot be reached, the faculty member may appeal the case in accordance with university procedures. (*See* **ARP 10.60 Faculty Grievance Review and Resolution**) In an appeal situation, if a change in academic responsibilities will affect the faculty member for more than one semester, the appeals procedure must have been completed before the reassignment can be made or continued.

## H. Considerations for Variance

The percentage breakdown of time allocated to each academic activity may vary among faculty members.

1. The allocation will be based on the average time required for the satisfactory performance of the activity.
2. Courses such as thesis, dissertation, research, special problems and independent study are not automatically considered to be the equivalent with teaching typical graduate or undergraduate courses. When such activities are included in the teaching load, the department head or equivalent administrator and the affected faculty member shall collaboratively determine course equivalency consistent with the department teaching load policy.
3. In collaboration with faculty in their department or equivalent unit, and subject to approval by the college dean or equivalent administrator, department head or equivalent administrator may make adjustments to faculty teaching loads if those adjustments increase load equity and are at least revenue neutral. Adjustments to teaching loads within programs should result in or maintain load equity, should respect the career paths of faculty, and should not place an extra teaching burden on junior faculty who are preparing for tenure review. When a faculty member is assigned special duties above the normal load, arrangements will be negotiated

between the faculty member and concerned administrators to determine the amount of additional compensation, if any, to be received.

4. When considering individuals for tenure, promotion in rank, merit pay increases, research/service awards, and/or endowed chairs/professorships, departmental workload policy and an applicant's teaching load history must be presented to reviewing bodies and individuals. An applicant's teaching load and its potential impact on scholarly and creative activities, and service must be considered in the review process.

## I. Cooperation

The successful application of these guidelines depends upon maintaining goodwill between faculty and administrators.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 6 | HR - Hiring, Work Rules and Assignments

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 07/29/2009

## Related

**Cross-Reference:**
(*See also* 5.45.30 Department Heads - Teaching Loads)

**Revision History:**

*[Amendment effective 07.01.09(FS Proposition 05-08/09) passed by the Faculty Senate 10.30.08; approved by the Administrative Council 11.11.08; adoption of amendment ratified by the Board of Regents 07.29.09] [Amendment effective 07.01.09 (FS Proposition 19-08/09) passed by the Faculty Senate 04.30.09; approved by the Administrative Council 07.14.09; adoption of amendment ratified by the Board of Regents 07.29.09]*

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 6.62 – Faculty Assignments – Summer Session

arp.nmsu.edu/6-62

Summer teaching at the university is considered a privilege and not a right. Departments will use the following guidelines in determining summer teaching assignments within the department's FTE summer allocation:

## A. Priorities

1. The first priority must be student and program needs. As resources permit, courses needed by the students to complete programs in a timely fashion should be offered.
2. After student needs, continuing tenured and tenure-track faculty will have priority in teaching assignments.

## B. Development of Departmental Policy

Departments will have the flexibility to develop their own policies after priorities #1 and #2 above have been met. The departmental policy must be written and available to all departmental faculty and other interested parties. The departmental policy must adhere to existing university policies, rules and procedures related to summer teaching (e.g., generally, faculty members will be employed in one 6-week period only).

## C. Allocation as Relates to Department Heads

No summer session faculty allocation is used for 12-month department heads who teach in the summer.

## D. Schedule

Two 6-week sessions will be scheduled between the end of the spring semester and the beginning of the fall semester. Colleges and departments offering courses numbered 450 and above, designed primarily to meet the needs of teachers have permanent approval to

offer courses on a 5-week schedule. During the first summer session, the 5-week option schedule begins after the first week of instruction. In the second summer session, the 5-week option schedule ends after the fifth week of instruction. It is recognized that students may be registered in both 5-week and 6-week courses. Graduate students in a combined registration may not register for more than 6 credits.

## E. Faculty Teaching-Normal

Because the summer schedule must be prepared well in advance, and summer funding is always uncertain, early agreements regarding summer teaching must be identified as tentative. No actual commitment is made until approvals are completed on an E-Hire Form Permission to Offer section). Full load for 6 weeks is 4.5 semester credits or equivalent. (For community college faculty the full load for 6 weeks is 6 semester credits or equivalent.)

## F. Salary for Summer Session

(See ARP 7.34 Faculty Compensation-Summer Assignments)

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 6 | HR - Hiring, Work Rules and Assignments

**Rule Administrator:** Executive VP and Provost

**Last Updated:** Not Available

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 6.88

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 6.63 – Faculty Assignments – International

arp.nmsu.edu/6-63

## A. Internalization Generally

Internationalization is the incorporation of international content, materials, activities, and understanding into teaching, research, and public service functions of universities to enhance their relevance in an interdependent world. The major elements of the strategy being used to internationalize our university are:

1. Defining international goals/objectives.
2. Determining specific actions/activities relating to goals/objectives.
3. Identifying individuals/units which have lead responsibilities for implementing activities.
4. Formulating a strategy for the implementation of activities.

## B. Internationalization Policy

The current emphasis is seeking a balance between the concepts of cooperation and competition. This new emphasis places a major responsibility on the U.S. universities for providing relevant educational experiences for their students so that they are equipped to compete, become gainfully employed, and participate effectively as citizens in the new and emerging world environment. The principal purpose of university's internationalization strategy is to systematically and incrementally change the institution to better serve current and future needs of the institution's clientele.

## C. Assignment of Faculty to International Programs

The nature and requirements of the international assignment will be carefully reviewed and understood by university administrators and the faculty member before beginning the assignment. Accomplishments during assignment to international projects will be given consideration in evaluating annual performance, merit increases, promotion, and advancement to continuous contract. In future evaluations, consideration may be given to

how knowledge and insight gained during an international assignment are integrated into the faculty member's teaching, research, and outreach responsibilities after returning from this assignment. (See Also **ARP 6.64 – Faculty Exchange**; and **ARP 14.69 – University Related Travel Guidelines**).

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 6 | HR - Hiring, Work Rules and Assignments

**Rule Administrator:** Executive VP and Provost

**Last Updated:** Not Available

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 5.20.10

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 6.64 – Faculty Exchange

arp.nmsu.edu/6-64

## A. Eligibility

All full-time faculty and staff are eligible to participate in exchanges, with the approval of the cognizant department head, dean, director, vice president, and executive vice president and provost. The number of exchanges in any period will be limited only by the resources available to support exchange, and to the extent which exchanges can positively affect the teaching, research and service programs of the college. Faculty will be encouraged to consider international exchanges and sabbaticals.

## B. Length

Exchanges may be for any length of time subject to the approval of the cognizant administrators.

## C. Compensation

The university will continue to pay the exchange participant's salary and fringe benefits during participation in an approved exchange program. The participant, in effect, remains under contract with the university. A faculty or staff member preparing for exchange, or on exchange, will be considered the same as a continuing faculty or staff member for the purposes of annual salary incremental decisions. Individuals and departments may propose other approaches to compensation, depending upon the particular exchange circumstance.

## D. Promotion, Leave, and Other Considerations

Exchange participants will not lose rights or progress toward promotion, tenure, and sabbatical leave considerations by virtue of their participation in an exchange program. In other personnel considerations, exchange participants will be treated, to the extent possible, as if they were in residence at the university.

## E. Rights and Responsibilities

Exchange participants will not lose any rights or responsibilities as members of the faculty and staff or as employees of the university by virtue of participation in the exchange program.

## F. Legal and Contractual Obligations

A Leave Request Form is required. Exchange assignments will be detailed in a Home Memorandum of Agreement following placement. Any special legal or contractual obligations of the individual or the institution will be specified on this form. A similar form will be signed between the exchange participant and the host institution. For incoming exchange participants, the college will specify on a Host Memorandum of Agreement any contractual obligations, exchange responsibilities, and any special considerations related to the incoming faculty or staff member. No housing or relocation expenses will be paid to either outgoing or incoming exchange faculty or staff unless agreed to in the Memorandum of Agreement.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 6 | HR - Hiring, Work Rules and Assignments

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 10/12/2017

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 5.65

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 6.70 – Searches for Academic Administrators

arp.nmsu.edu/6-70

**A.** Guidelines and procedures for a search may be found in the *Search Committee Guidelines*, copies of which are available in departmental offices or through the Office of Institutional Equity/OIE.

**B.** Faculty members shall serve on search committees for academic administrative positions. They will be nominated and elected for this specific purpose.

**C.** The executive vice president and provost will inform the chair of the Faculty Senate about nonacademic administrative searches, and the chair may request similar faculty representation.

**D.** All academic administrative positions at the department head (or equivalent) or above level, including that of the Chancellor, require a search to be filled permanently.

**E.** A search at the department head (or equivalent) or associate dean levels may be done externally or internally.

**F.** Searches for all positions at the dean (or equivalent) level must allow external applicants.

**G.** Internal candidates, including interims, are allowed to apply for any position.

**H.** In all cases where external and internal candidates apply for the same position, these applicants will be treated equally. There is no assumed preference for internal applicants.

**I.** The provisions of this rule do not limit the Board of Regents when negotiating a contract for interim president.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 6 | HR - Hiring, Work Rules and Assignments

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 02/01/2010

## Related

**Cross-Reference:**

**Revision History:**

2017 Recompilation, formerly Rule 5.96

02/01/10 Amendment ratified by Board of Regents

09/25/09 Adoption of amendment approved by Board of Regents

04/14/09 Amendment approved by Administrative Council

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 6.71 – Department Head Appointments

arp.nmsu.edu/6-71

A department head serves at the discretion of the dean/director, with the concurrence of the executive vice president and provost. All academic departments are administered by department heads under the cognizance of the college dean, graduate dean, if appropriate, and the executive vice president and provost.

## A. Department Head Increment

It is the policy of the university to provide additional stipends for those administering the academic departments, based upon the number of full-time faculty, part-time faculty, and graduate assistants supported from instruction and general funds. It is understood that this increment is included in the original offer to department heads just joining the faculty and is relinquished if the individual gives up the department head responsibilities.

## B. Faculty Rank

Department heads are academic administrators, with faculty rank, but eligible for consideration under all policies applying to the faculty. For example, some department heads have been promoted to a higher rank and some have been tenured, but obviously the promotion and tenure considerations were in keeping with their positions as members of the faculty.

## C. Length of Appointment

For department heads who are 12-month employees, the year is from July 1 to June 30. Department heads that have negotiated a 9-month appointment come under the policies of the regular faculty with respect to all pay and fringe benefits and normally are excluded from summer teaching. Department heads observe the administrative calendar.

## D. Salary Determination

When an internal candidate is selected, department head salary normally is determined by multiplying the 9-month faculty salary by 12/9 and adding the department head increment.

## E. Summer Session

(*See* ARP 7.34 Faculty Compensation-Summer Assignments)

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 6 | HR - Hiring, Work Rules and Assignments

**Rule Administrator:** Executive VP and Provost

**Last Updated:** Not Available

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 5.45

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 6.72 – Department Heads Responsibilities, including Teaching

arp.nmsu.edu/6-72

The following responsibilities of the department head are to be accomplished, insofar as possible, within budget and policy/rules restraints.

## A. Academic Leadership

The department head is expected to be the academic leader of the departmental faculty. The department head is responsible for ensuring that highly qualified faculty are employed. Also, the department head ensures that official transcripts, including highest degree earned are obtained for every new faculty member's official personnel file (routed through the Office of the Executive Vice President and Provost). Insofar as possible, the kind of atmosphere in which the faculty can do their best work in teaching, research, and service should be maintained.

## B. Faculty Development

Leadership of the faculty implies working closely with the faculty on the development and sustenance of departmental courses and the stimulation and encouragement of faculty development. A performance evaluation of each faculty member will be carried out at least once a year and should be made in the positive vein of professional development. Evaluation of the progress of tenure-track faculty should be made in consultation with senior department faculty and in accordance with the highest national standards of faculty performance.

## C. Professional Contacts

The department head is responsible for encouraging the national and international professional contacts of the faculty within the constraints of the departmental budget. This implies appropriate travel and bringing well-known professionals to the campus.

## D. Teaching Support

The department head has no more important task than ensuring teaching excellence. Encouragement and support of good teaching must be given to faculty, especially new faculty. Copies of current syllabi will be maintained in the department head's office. The department head is responsible for ensuring an effective departmental evaluation of teaching, and for advisement of student departmental majors.

## E. Effective Management

The department head must ensure the effective administration of the department, including keeping the faculty fully informed of department, college, and university matters. Routine and special reports, including grade reports and other matters, must be handled accurately and on time. Effective supervision and development of the department budget is important. The department head will keep the faculty informed on budgetary matters. All research and program contracts should be carefully supervised, both for fiscal integrity and academic appropriateness.

## F. Departmental Advocate/College and University Steward

The department head is expected to be an advocate of the department, yet at the same time appreciate the concerns and priorities of the college and university. The most important department activities in the development of faculty, programs, research, and service are done in close partnership with the office of the dean of the college.

## G. Liaison to Dean

The department head is responsible to the dean of the college for all the activities of the department. The dean should be kept apprised of all department activities and problems.

## H. Policy Compliance

The department head is responsible for ensuring that department, college, and university policies, rules and procedures are enforced.

## I. Role in Recruitment

The department head will inform the search committee chair if an underutilization memorandum is received from the Office of the executive vice president and provost for purposes of meeting affirmative action goals. The *Search Committee Guidelines* will be provided by the department head for tenure-track faculty positions.

## J. Supervision of Graduate Assistants

Graduate assistants are recommended for appointment by the department head. The appointment requires approval of the college and graduate dean. Three letters of recommendation are required for the approval. Specific orientation and training of graduate assistants are the responsibilities of the department head. Graduate assistants work under the close supervision of faculty. The policy on academic freedom does not apply to the service expected of graduate assistants. The assignment of teaching duties to graduate assistants is the responsibility of the department head. Such assignment requires that the department head ascertain that the graduate assistant is fully qualified and that the work performed by the graduate assistant be closely supervised by a member of the faculty responsible for monitoring the assigned tasks associated with the graduate assistant's teaching responsibility. Only those graduate assistants proficient in English may be assigned to teaching or teaching-related activities.

## K. Department Head Teaching Requirements

| **Minimum teaching for FA/SP/SI/SII** | **Number of courses of 3 credits or equivalent*** |
|---|---|
| Doctorate granting departments | 3 |
| Master granting departments | 4 |
| Bachelor granting departments | 5 |

*Adjustments

With the approval of the dean, an adjustment of one fewer course than the above number of courses may be made by any department that qualifies for three or more points as listed below.

| | Points |
|---|---|
| **With 100 or more majors** | 1 |
| **With 15 or more graduate students** | 1 |
| **With $300,000 in grants or more and/or $20,000 in gifts in each year** | 1 |
| **With 15 or more faculty** | 1 |
| **With 30 or more faculty** | 1 |

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 6 | HR - Hiring, Work Rules and Assignments

**Rule Administrator:** Executive VP and Provost

**Last Updated:** Not Available

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 5.45

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 6.81 – New Employee Orientation

arp.nmsu.edu/6-81

**A.** All benefit eligible employees are encouraged to either attend a New Employee Orientation group session or review the orientation information and handouts on the NMSU benefits web site within 31 days of employment.

**B.** It is the employing department's responsibility to provide employees with benefits enrollment information within their first 31 days of eligible employment, and to notify employees of their option to either attend a New Employee Orientation group session or review the orientation information.

**C.** The online information is available on the NMSU benefits web site.

Employees who do not enroll within established deadlines for the university insurance plans are subject to late enrollment provision, when applicable.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 6 | HR - Hiring, Work Rules and Assignments

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 06/20/2013

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 7.23

06/20/13 Amendment approved by BoR

10/22/07 Amendments ratified by Board of Regents

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 6.82 – NMSU ID Card Issuance Procedures

arp.nmsu.edu/6-82

## A. Permanent ID Cards

Regular and term employees are issued a permanent identification card.

## B. Temporary ID Cards

Non-regular temporary employees will be issued temporary identification cards. Other persons eligible for identification cards include campus ministers (and associated persons) and affiliated faculty/staff.

## C. Issuance Procedures

Employees may have their pictures taken at the ID Card Services in Corbett Center and receive their printed NMSU ID card with a valid picture ID.

## D. Proof of ID Card Required

The identification cards are required for admittance into the Activity Center, Natatorium, for ticket discounts, library privileges and to obtain a parking permit.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 6 | HR - Hiring, Work Rules and Assignments

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 06/20/2013

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 7.11

06/20/13 Amendment approved by Board of Regents

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 6.85 – Staff Work Schedules

arp.nmsu.edu/6-85

## PART ONE: EXEMPT EMPLOYEES

All exempt (salaried) staff employed at a 1.0 FTE (full time equivalent) will maintain a standard work schedule, as approved by the supervisor, with a minimum of 40 scheduled work hours per week. The standard work schedule will typically align with the Standard Business Hour Schedule as provided in **ARP 14.05**, but may be adjusted to meet the needs of the specific unit and its constituents. Faculty work hours are addressed in **ARP 6.86**.

## PART TWO: NON-EXEMPT EMPLOYEES

The work schedules for all non-exempt (hourly) employees, whether covered by the collective bargaining agreement or not, will be governed by the terms of the NMSU-AFSCME collective bargaining agreement.

## PART THREE: ADJUSTED WORK SCHEDULES

Individual work schedules may be adjusted to meet the desires of individual employees when the supervisor determines that the adjustment will not have an adverse impact on the unit's constituents, compliance with ARP 14.05, or the productivity of the unit. The requirements of some job positions will be not be conducive to an alternate work schedule. When approved, adjusted work schedules may be of indefinite duration or for a stated period of time, but in all cases may be revoked upon reasonable notice, at the discretion of the supervisor. All requests and subsequent approval or denial or revocation of alternate work schedules are to be in written form.

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 6 | HR - Hiring, Work Rules and Assignments

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 06/12/2019

## Related

**Cross-Reference:**
**ARP 7.20 - Staff Overtime Pay or Comp Time**

**Revision History:**
06/12/2019 Amendment approved by Chancellor
08/08/2017 Amendment approved by Chancellor
2017 Recompilation, formerly Rules 3.70 & 8.75
10/21/2015 Policy 3.70 approved as initial Rule 3.70 by Board of Regents
Prior revision history as Policy 3.70 not available

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 6.86 – Faculty Availability and Office Hours for Students

arp.nmsu.edu/6-86

## PART 1: FACULTY AVAILABILITY

A. During each academic semester, faculty will be available, physically or virtually, for meetings called with reasonable advance notice and for assignments by the department head or appropriate academic administrator. The academic semester begins on the faculty return date identified on the academic calendar and ends on the date final grades are due. Nine month faculty who do not accrue annual leave are relieved of this expectation during the academic breaks (e.g. Spring Break and Thanksgiving Holiday).
B. In the event of illness or other reasonable justification, faculty who will be unavailable for meetings or their office hours designated for students will as soon as reasonably possible, notify the department head or other academic administrator for alternate arrangements and/or student notifications to be made.
C. In the case of an occasional absence, the general practice is for another member of the department to substitute until the faculty member returns. Faculty who will be absent from campus for more than 3 days due to illness or any other FMLA qualifying event must also notify the FMLA office. In cases where FMLA leave is approved, the department head or appropriate academic administrator will make arrangements for course coverage.

## PART 2: FACULTY OFFICE HOURSFOR STUDENTS

A. Faculty members will facilitate meetings requested by students and will be available in person or virtually for their students during the entire academic semester, with the exception of the academic breaks for nine month faculty. The purpose of faculty office hours is to set aside time for students. During this time, faculty will be present in their assigned office, if any, and prioritize students' needs. Consistent with the requirements in ARP 4.45, faculty will not meet students at private off-campus locations to conduct academic or university business, even if requested by the student, except as a reasonable accommodation vetted through Student Accessibility Services or the Office of Institutional Equity and notice to the department head or appropriate academic administrator.
B. Each academic department or program establishes the number and nature (e.g. in person or virtual) of office hours appropriate to support students in its courses.
C. Once office hours are determined, they will be published in the course syllabi and in the academic department office or posted on their office door.

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 6 | HR - Hiring, Work Rules and Assignments

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 10/09/2019

## Related

**Cross-Reference:**
ARP 4.45 - Faculty Adherence to Course Schedule

**Revision History:**
10/09/2019 Amendment approved by Chancellor
2017 Recompilation, formerly Rule 5.84

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 6.89 – Mandatory Employee Training; Opportunities for Professional Development

arp.nmsu.edu/6-89

## PART 1: PURPOSE

This rule is established to enhance the university's compliance efforts with regard to the various federal, state, or other laws, regulations and standard grant/contract provisions applicable to university operations.

## PART 2: TRAINING REQUIREMENTS AND OPPORTUNITIES

1. Definition of Compliance Training: Compliance training refers to training made available by the university concerning state or federal laws and regulations and/or university policies and procedures which may be relevant to an employee's organizational responsibility or to individual obligations as a university employee.
2. Mandatory Nature of Compliance Training: As a condition of employment, all employees must complete annual compliance training and other training that the chancellor or the executive vice president and provost designate as mandatory.
3. Facilitation of Compliance Training: Supervisors and managers are responsible for coordinating and facilitating the timely completion by their employees of the annual compliance training and other training designated as mandatory.
4. Other Professional Development Opportunities: NMSU regularly offers training sessions for the development of skills, knowledge, abilities, and individual growth, in conformance with the institution's mission, vision and strategic plan. NMSU employees may request to attend such trainings. Supervisors also may require employees to attend these trainings, or other relevant training, to enhance work performance.

## PART 3: PROCEDURES

Human Resource Services-Center for Learning and Professional Development (HRS-CLPD), with the concurrence of the assistant vice president for human resource services may issue training schedules and supplemental directives in addition to those listed below, provided they are consistent with this rule.

1. Mode of Providing Training/Employee Access to Training Record: Training will be offered via computer, in person, or any other medium that the assistant vice president human resource services deems appropriate. HRS-CLPD will make professional development and training requirements and records available to employees at https://trainingcentral.nmsu.edu
2. Training Records: Maintenance and storage of NMSU employee training records will be performed by HRS-CLPD, with the exception of training records for NMSU personnel who work in: 1) Research Compliance, 2) Police Department and 3) Fire Department. These three units will maintain accurate training records for their respective personnel, in coordination with HRS-CLPD as necessary.
3. Supervisory Responsibilities: Supervisors and managers will monitor and comply with communications received from administration pertaining to required training. Supervisors are expected to implement disciplinary measures for their employees who fail to comply with training requirements.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 6 | HR - Hiring, Work Rules and Assignments

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 03/13/2018

## Related

**Cross-Reference:**
**Revision History:**

03/13/2018 Amendment approved by Chancellor

2017 Recompilation, formerly Rule 3.19.25

10/21/2015 Board of Regents approved replication of Policy 3.19.25 as initial Rule 3.19.25

05/08/2015 Policy adopted by Board of Regents

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 6.90 – Outside Employment or Activities

arp.nmsu.edu/6-90

Employees may not engage in outside business activities while on duty. Violation of this provision may be grounds for involuntary termination. Employees holding a part or full-time second job should not allow such employment to interfere with their performance or attendance. If the supervisor can reasonably demonstrate that performance or attendance problems are resulting from outside employment, the supervisor may ask the employee to terminate such employment. If the employee refuses to do so, the employee may be terminated.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 6 | HR - Hiring, Work Rules and Assignments

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** Not Available

## Related

**Cross-Reference:**
(*See also* Chapter 3 Codes of Conduct - Conflict of Interest)

**Revision History:**

2017 Recompilation, formerly Rule 4.50

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 6.91 – Staff Consulting

arp.nmsu.edu/6-91

**A.** Exempt employees whose full-time duties and responsibilities are similar to those of faculty may be granted consulting privileges subject to prior approval of the appropriate supervisors through the executive vice president and provost. The terms and conditions of these privileges are contained in **ARP 6.92 Faculty Consulting**.

**B.** Other exempt employees who engage in any form of paid consulting, contracting, retail, or wholesale activity not directly related to their university responsibilities normally will do so only on their own time.

**C.** Outside activities during a normal duty day should have prior approval by a supervisor and be accomplished on an annual leave or compensatory time basis.

**D.** No paid outside activity may be pursued which would create the appearance of a conflict of interest with university responsibilities or which would reflect unfavorably on the university. Outside activities will not be allowed when they prevent an employee from accomplishing regularly assigned duties.

**E.** With prior approval from the appropriate supervisor and cognizant dean/director/vice president, exempt employees may engage in job-related service or professional activities outside the university without taking annual leave (such as serving on an accrediting team or holding a professional office). The activity must be of benefit to the university and support the goals of higher education. University employees working on government contracts that require accounting for all direct and indirect time, and all sick leave, holiday, and annual leave time, will be required to comply with record keeping systems that meet government audit requirements. Full accountability of all paid time is the general norm for this type of organization. University facilities, equipment, personnel or supplies which are not freely available to the general public will not be used in consulting without proper arrangements for reimbursement. (*See Also* **Rule 5.15.40**, Section P., "Exempt Staff Hired as Part-time Faculty")

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 6 | HR - Hiring, Work Rules and Assignments

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** Not Available

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 8.25

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 6.92 – Faculty Consulting

arp.nmsu.edu/6-92

## A. Definitions

The following definitions, policies, and procedures will be applied to all full-time faculty members:

1. **University**: New Mexico State University.
2. **Consulting**: Services for compensation, not disbursed by the university, in an employee's area of specialization.
3. **Consulting time**: That time afforded a faculty member during the faculty member's normal working hours.
4. **Full-Time and Part-Time**: A faculty member employed for an FTE fraction of 0.9 or greater is considered full-time, while an FTE fraction of less than 0.9 is considered part-time.

## B. Consulting Policies

1. Consulting by full-time faculty should be considered secondary to the performance of the faculty member's assigned duties.
2. Written notification is required for consulting. Written permission is required for consulting time.
3. Consulting time shall not average more than 1 day per week during the months of full-time employment excluding those days when university offices are officially closed.
4. Consulting is to be conducted in an ethical manner that should not create a conflict-of-interest situation.
5. University facilities, equipment, personnel or supplies which are not freely available to the general public will not be used in consulting without proper arrangements for reimbursement.
6. Additional assignments performed during normal university working hours, and for which an employee receives supplemental compensation, will be counted against that faculty member's allowed consulting time and must be approved by all cognizant administrators.

## C. Procedures/Right to Appeal

1. The faculty member shall submit a written notification of consulting to the faculty member's immediate supervisor (usually the department head) prior to initiation of consulting. At times, consulting opportunities arise when it is not possible to immediately submit a written notification (such as weekends or holidays). In those cases, the faculty member is expected to make every possible effort to submit the notification on the next regular business day for the university.
2. The immediate supervisor is responsible for notifying the appropriate dean or director of those faculty members who have submitted notification of consulting.
3. The faculty member shall obtain prior written permission for consulting time from the faculty member's immediate supervisor and appropriate dean or director. The request for consulting time must be acted upon within 5 working days.
4. Prior written approval and financial arrangements for reimbursement must be obtained from the immediate supervisor before university facilities, equipment, personnel or supplies may be used in consulting by the faculty member. These arrangements will be reviewed by the appropriate dean or director and may be disapproved, with cause.
5. Causes for denial of consulting privileges include, but are not limited to: a clear conflict-of-interest situation, unprofessional conduct by the faculty member negatively reflecting on the university, significant interference with assigned university duties, consulting time exceeding an average of 1 day per week, or misuse of university facilities, equipment, personnel or supplies.
6. The faculty member may appeal decisions (denial of consulting privileges) to the Faculty Grievance Review Board.
7. Additional policies not in conflict with the above may be developed and implemented by the college faculties and administrations.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 6 | HR - Hiring, Work Rules and Assignments

**Rule Administrator:** Executive VP and Provost

**Last Updated:** Not Available

## Related

**Cross-Reference:**

(*See also* Rule 8.25, Consulting-Exempt Staff; Rule 4.70, Supplemental Employment/Compensation; Rule 3.20, Conflicts of Interest and Conflicts of Commitment)

**Revision History:**

2017 Recompilation, formerly Rule 5.32

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 6.93 – Public Affairs Participation

arp.nmsu.edu/6-93

The policy of the Board of Regents is that faculty and staff have the same citizens' rights as other people. However, employees seeking elective office or serving in an elective office must not allow campaign and service activities to interfere with university responsibilities. Employees elected to the state legislature will be placed on leave without pay during the term of such office. Any possible conflict of interest shall be reported by the employee or by any other concerned employee to the administration through the appropriate channels. Unresolved issues shall be referred to the appropriate Faculty Grievance Review Board. It shall be the responsibility of the employee to report appointment or election to public bodies and/or conflict of interest situations. Such reports shall be sent to the Office of the President. The written notification shall include the type of employment or type of office, the commencing and terminating dates or period of service, and, when applicable, the nature of the conflict of interest situation. The Chancellor has discretion to approve requests to serve on international, national, state, and local committees and commissions.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 6 | HR - Hiring, Work Rules and Assignments

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** Not Available

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 4.60

© 2017 New Mexico State University - Board of Regents

# Chapter 7 | HR – Compensation and Changes in Status

## Subsections in Chapter 7


- 7.01 – Staff Compensation
- 7.10 – Area/Shift Differentials
- 7.11 – Multi-lingual Pay for Non-Exempt Staff
- 7.12 – Hardship Differential Pay
- 7.13 – On-call Pay for Non-Exempt Staff
- 7.14 – Call-back Pay for Non-Exempt Staff
- 7.15 – Staff Degree Achievement Recognition
- 7.20 – Staff Overtime Pay or Comp Time
- 7.21 – University Closure Pay
- 7.25 – Non-Tenure Track Faculty – Salary and Benefits Eligibility
- 7.30 – Tenure Track and Tenured Faculty – Salary Adjustments
- 7.31 – Faculty Compensation for Teaching Continuing Education
- 7.32 – Faculty Salary Increase for Promotion
- 7.34 – Faculty Compensation – Summer Assignments
- 7.35 – Academic Administrator Reassignment and Retreat
- 7.52 – Staff Reclassification
- 7.53 – Additional Compensation for Supplemental NMSU Employment
- 7.60 – Transfers
- 7.65 – Reductions in Force
- 7.70 – Separation from NMSU Service

- 7.71 – Resignation- Notice Required; Impact on Benefits
- 7.75 – Ineligibility for Rehire Designation

Select

Submit

## ARP Maintenance

The Administrative Rules and Procedures (ARP) is maintained by University General Counsel.

Inquiries should be directed to gencounsel@nmsu.edu

ARP History

## Policy Maintenance

The Administrative Rules and Procedures of NMSU Manual is maintained by University General Counsel. Inquiries should be directed to gencounsel@nmsu.edu.

## Proposals Under Review

Proposals for new and revised rules are available to NMSU stakeholders on the UGC SharePoint site.

UGC SharePoint Site

## Related Sites

University General Counsel

Regents Policy Manual

Business Procedures Manual

Other University Regulations

Board of Regents

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 7.01 – Staff Compensation

arp.nmsu.edu/7-01

## A. Salary Schedule

1. **Exempt Employees**: Entry salary for exempt employees is determined in accordance with the exempt salary schedule by direct negotiation between the employee and the supervisor with prior approval of the appropriate dean, director, vice president, or executive vice president and provost and the Office of Human Resource Services.
2. **Nonexempt Employees**: New employees are normally hired at entry level of the appropriate grade. With justification and prior approval appropriate dean, director, vice president, or executive vice president and provost and the Office of Human Resource Services, certain applicants may be hired at 5 percent or 10 percent above the entry level dependent upon experience. Employees hired above entry level are not eligible for an end of probation increase. Adjustments may be made to the in-hire rate for positions or in areas that require a higher rate to be set competitive with the local market. (*See* **ARP 7.10** (B) Area Differential) The salaries of all employees occupying nonexempt positions are based on the grade as set by the current salary schedule and the university job classification specification. No employee shall be paid less than the minimum for his or her grade in the salary schedule. Classification specifications are standardized descriptions of the characteristics, duties, and minimum qualifications for a group of positions. The qualifications statement in each classification specification establishes minimum requirements that are to be met by an individual before being considered for appointment or promotion. Combinations of education and experience are specified in the classification specification. Other combinations, if deemed equivalent by the Office of Human Resource Services, may qualify an individual for appointment or promotion. Employees may be required by their supervisor to perform duties outside the general skill level of their classification specification on a temporary basis. A supervisor who determines that the standard classification specification does not accurately describe a position should initiate reclassification action (See **ARP 7.52 Staff Reclassification**).
3. **Temporary Nonexempt Employees**: A temporary employee is normally hired at the entry level of the appropriate grade and remains at the in-hire rate unless the salary schedule changes. If the salary-scale changes, the salary is adjusted in accordance with the new scale. If the salary scale does not change, the employee may be

awarded the appropriate base adjustment. Temporary employees are paid on an hourly basis. The E-Hire Form must specify a termination date that does not exceed 12 months. Temporary employees are not eligible for insurance coverage, benefits or holiday pay. The Notice of Employee Separation Form, employment application/resume, and I-9 Form accompany the appointing E-Hire Form, attached to the transmittal form.

4. **Temporary Exempt Employees**: Compensation is in accordance with the exempt salary schedule and may be negotiated between supervisor and employee with prior approval of the Office of Human Resource Services and/or the executive vice president and provost. The supervisor makes salary recommendations at the time the position is requested. (See **ARP 7.20 Staff Overtime Pay or Compensatory Time**) Exempt temporary employees are not eligible for insurance coverages, benefits or holiday pay. The appointing E-Hire Form must specify a termination date not to exceed 12 months and should contain a brief explanation of the work to be performed and salary calculation. The Notice of Employee Separation Form, resume and I-9 Form should accompany the E-Hire Form, attached to the transmittal form.

## B. Wage Increases For Nonexempt Employees

Nonexempt employees shall receive a 5% wage increase effective on July 1, 2007; an additional 5% wage increase effective on July 1, 2008; and an additional 5% wage increase effective July 1, 2009. Except as otherwise provided by legislative appropriation, wage increases shall be administered each year as follows:

1. All eligible employees whose base salary is less than $30,000 prior to the increase shall receive a full 5% wage increase.
2. For eligible employees whose base salary is $30,000 or more prior to the increase, a percentage of the wage increase – 90% in 2007, 70% in 2008, and 70% in 2009 – shall be added to each eligible employee's salary as a cost of living base adjustment. Organizational units shall be allocated a block of funds for the remaining percentage of the wage increase – 10% in 2007, 30% in 2008, and 30% in 2009 – for performance adjustments to such eligible employees, to be distributed at the unit's discretion as justified by performance evaluation ratings.
3. **The following employees shall not be eligible for any wage increase**:
    a. employees hired after the preceding March 31.
4. **The following employees shall not be eligible for a performance adjustment**:
    a. employees hired after the preceding January 1;
    b. employees on Long Term Disability (LTD) or Leave Without Pay (LWOP) status for six (6) months or more during the preceding review period;

   c. employees with a "needs improvement" or "unsatisfactory" overall performance rating on the preceding performance evaluation.
5. All wage increases are contingent upon the specific appropriation of funds by the Legislature for such increases, which shall be implemented if the specific appropriations are granted.

## C. Salary Adjustments for Exempt Employees

Salary adjustments and period of assignment will be approved on an individual basis by the Office of Human Resource Services and the executive vice president and provost. Adjustments will be in accordance with the promotion Rule outlined below.

## D. Temporary Assignment to a Position of Another Level

1. **Higher classification**: An employee who is temporarily assigned to a higher position for a period in excess of 1 calendar month may be assigned a salary in the higher grade in accordance with the rules for promotion (See **ARP 9.10 – Staff Internal Promotion Process**) from the first day of the assignment. To be assigned to the grade, the employee must meet minimum qualifications for the position. If there are no qualified employees, the duties will be reassigned to other employees.
2. **Lower or lateral classification**: The employee will not receive any adjustment in pay.
3. **Temporary assignments**: Temporary assignments will not normally exceed 1 calendar year.

## E. Rate of Pay on Demotion (Voluntary or Involuntary)

1. **Nonexempt Employees**: When a nonexempt employee is demoted or accepts a position at a lower grade level, a salary rate will be received in the lower salary range that is 5 percent above the entrance level; or the following percentage decrease, whichever is less of a reduction:
   a. 5 percent if the demotion is one grade.
   b. 8 percent if two or three grades.
   c. 15 percent if four grades.
   d. 5 percent per grade thereafter.
2. **Exempt Employees**: Recommendations for exempt salary rates should be submitted to the Office of Human Resource Services for approval by the executive vice president and provost.

## F. Rate of Pay on Voluntary Lateral Transfer to the Same Grade

Whenever an employee makes a lateral transfer, there is normally no change in salary.

## G. Rate of Pay for Promotion, Equity or Base Adjustment

1. **Nonexempt Employees (Non-probationary)**: The new base salary for nonexempt employees on a promotion will be:
    a. 5 percent if promotion is one grade.
    b. 8 percent if two or three grades.
    c. 15 percent if four or more grades.
    d. 5 percent above entry level of new grade, whichever is greater.
2. **Exempt Employees**: Exempt employees may receive an internal promotion, equity or base adjustment salary increase of from 0 to 15 percent or to entry of the new salary level with prior approval of the executive vice president and provost. Internal promotions should not normally exceed a two-level increase. Equity adjustments may be considered dependent upon availability of funding for exempt employees. Internal and external market comparisons are reviewed when considering equity adjustment requests.
3. **Nonexempt to Exempt**: A nonexempt employee being internally promoted to an exempt position may receive a salary increase of from 0 to 15 percent or to entry of the new salary level with prior approval of the Office of Human Resource Services and the executive vice president and provost.

## H. Rate of Pay on Reclassification (Non-probationary)

1. **Nonexempt Employees**:
    a. The new base salary on reclassification to a higher grade will be:
        i. 5 percent, if one to three grades;
        ii. 10 percent, if four or more grades;
        iii. up to 15 percent, if from nonexempt to exempt; or
        iv. 5 percent above entry level of new grade, whichever is greater.
    b. A nonexempt employee reclassified to an exempt position may receive a salary increase of from 0 to 15 percent or entry of the exempt level with approval of the Office of Human Resource Services and the executive vice president and provost. Reclassification to the same grade level will not affect the salary. An adjustment in classification by the Office of Human Resource Services which

results in change of grade or elimination of title may or may not result in a salary change. Decisions regarding such changes will be made on a case-by-case basis.

2. **Exempt Employees**: Exempt employees may receive a salary increase of 0 to 15 percent or to entry
of the new salary level with prior approval of the executive vice president and provost. Reclassifications will not normally exceed two levels.

## I. End of Probation Salary Adjustment (Nonexempt Regular Employees Only)

Upon satisfactory completion of the initial probationary period, a new nonexempt employee may receive a 5 percent salary increase. Employees hired above the entry level will not receive an increase. Supervisors complete a Personnel Action Form and performance evaluation to implement the change from probationary to regular status. The salary increase will be effective 6 months following the employee's employment date or upon completion of the probationary period.

## J. Retroactive Pay Adjustment

Retroactive payment may be made back to the day of the calendar month in which the general pay adjustment was approved. Example: an employee was granted a pay adjustment effective April 26 but, due to an error, the proper amount was not paid. The error was discovered on June 15. The retroactive adjustment may be made back to April 26, the date the adjustment was approved. Salary adjustments may not pass beyond fiscal year dates without specific approval of the assistant vice president for human resource services. If an employee is overpaid due to an administrative error, the employee will be responsible for reimbursing the university the total overpayment.

## K. Meal Periods – Rest Breaks

A normal work day shall consist of 8 hours of work with a minimum of one-half hour and a maximum of 1 hour of non-work time granted for a meal period. Periods of less than 1 hour meal time and specific eating on the job arrangements must be approved by the department head or director. A 15-minute break period is allowed during each 4-hour work period. Non usage of break periods may not be used to make up time spent away from work. Break times cannot be accumulated.

## L. Three-Year Longevity Increase

Nonexempt employees who satisfactorily complete their initial 3 consecutive years of service will be awarded a 5 percent increase effective on the employee's anniversary date. Temporary or occasional employees are not eligible for the 3-year service award. Prior service with a break in employment in excess of 5 working days is not credited toward the 3 years of service. Leave without pay will not be included as service time.

## M. Service Increase

Regular nonexempt employees may be awarded a service increase upon satisfactory completion of 10, 15, 20, 25 and 30 years of regular consecutive service. The increase will be effective on the first day of the month after the anniversary date (i.e.; if the anniversary date is January 13, the award will be effective February 1). The increase will be $750 after 10 years; $850 after 15 years; $1,000 after 20 years; $1,300 after 25 years; and $1,500 after 30 years to be prorated for less than full time employees). The increase may not be retroactive and will be subject to satisfactory performance as documented on the performance evaluation form.

## N. Daily Maximum Hours of Employment

No employees, other than fire fighters, law enforcement officers, dispatchers, or farm or ranch hands, whose duties require them to work longer hours, or employees primarily in a standby position shall normally be required to work more than 16 hours in any 24-hour period, except in emergency or special situations.

## O. Deductions from Pay

Improper deductions from an employee's pay are prohibited. Full day suspensions without pay are allowed for exempt employees. Suspensions must be related to conduct. Supervisors must obtain prior approval from the appropriate dean or vice president/vice provost and the assistant vice president for human resource services. An exempt employee's pay can be docked for a voluntary day off if leave is unavailable to cover the time. Refer to FMLA **ARP 8.45 LOA – Family and Medical** for allowable partial day docking. (*See* **ARP 10.10 Staff Disciplinary Action/Involuntary Termination** and **ARP 10.20 Staff Grievances/Disciplinary Appeals**)

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 7 | HR - Compensation and Changes in Status

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 01/30/2012

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 8.15

01/30/12 Amendment approved by Board of Regents

10/22/07 Amendment approved by Board of Regents

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 7.10 – Area/Shift Differentials

arp.nmsu.edu/7-10

## A. Shift Differential Pay (Nonexempt)

Work schedules are divided into three, 8-hour shifts in any 24-hour work day. Normally, the daytime shift receives the base rate of pay; the second shift (swing) receives a $.10 per hour pay differential; the third shift (graveyard) receives a $.40 per hour pay differential. Any granting of differentials other than those specified must have specific approval of the Office of Human Resource Services. Payment is reported on Form 302 for employees rotating shifts. A Personnel Action Form is used for non-rotating shift employees. The comment section of the Personnel Action Form should note the base salary and shift differential separately. In order to be eligible for a shift differential, an employee's normal work schedule must extend more than 3 hours into the swing or graveyard shift. An employee is eligible for shift differential pay only for those hours extending into the swing or graveyard shift.

## B. Area Differential Pay

Occasionally, employees are sent on temporary duty to locations outside their normal work area. When the cost of temporary lodging and food exceeds the normal per diem rate, the supervisor may request a temporary adjustment to the employee's base pay during the absence to compensate for this loss. Such requests should be submitted to the Office of Human Resource Services. Adjustments in the in-hire rate for nonexempt employees to a rate above the entry rate to compensate for areas or positions in which the university's entry level salary is not competitive may be considered by the Office of Human Resource Services.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 7 | HR - Compensation and Changes in Status

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** Not Available

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 8.05

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 7.11 – Multi-lingual Pay for Non-Exempt Staff

arp.nmsu.edu/7-11

In facilities or offices where the employer deems it necessary to have on staff multi-lingual employees to facilitate communications with members of the public, and employees on staff assigned to the facility are available and capable of fulfilling such need, the university may designate a sufficient number of employees in the assigned work force to perform such duties and such employees shall be entitled to a differential in the amount of $.10 per hour

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 7 | HR - Compensation and Changes in Status

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 10/22/2007

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 8.15.05

10/22/07 Amendment approved by Board of Regents

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 7.12 – Hardship Differential Pay

arp.nmsu.edu/7-12

## A. Rule Statement

Hardship differential pay is extra compensation occasionally paid to employees assigned to work for a fixed period of time on a specific project to meet an objective, and under extraordinary working conditions.

## B. Procedural Guidance

1. Management should attempt to schedule staff and faculty such that excessive overtime and hardship to the employee is avoided; the hardship differential pay addresses those situations where this cannot be avoided.
2. Extraordinary working conditions include situations when the employee is required to work an inordinate number of hours beyond the normal forty (40) hour work week, or to work under unusually risky and/or hazardous conditions, or to work away from home through a holiday. Such working conditions should not be the norm, and payment of extra compensation is justified due to the significant hardship placed on the employee during the period of time necessary to meet the work objective.
3. In order to receive hardship differential pay, the appropriate dean, vice president or designee and the Office of Human Resource Services must approve it in writing.
4. The amount of the hardship differential pay will be a differential over and above the employee's regular salary, to be paid for the duration of the project.
    a. Hardship differential pay will be included in the calculation of overtime compensation for nonexempt employees.
    b. The differential for exempt and faculty employees shall not exceed their regular base rate of pay.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 7 | HR - Compensation and Changes in Status

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 09/08/2006

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 8.15.15

09/08/06 Policy adoption ratified by Board of Regents

07/11/06 Policy approved by Administrative Council

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 7.13 – On-call Pay for Non-Exempt Staff

arp.nmsu.edu/7-13

The university may assign and employee to on-call status in accordance with the following:

## A. On-call Status

An employee is assigned to on-call status in circumstances where the time expended will not constitute compensable hours worked under the Fair Labor Standards Act shall be paid "on call" pay in the amount equal to $1.00 per hour for each hour of assigned on-call status.

## B. Unrestricted Call-back Status

On-call pay shall not be paid to employees who are placed on stand-by status and who are provided with a pager, cell phone or other electronic device and required to return to work site as soon as practical from the time contact is made, so long as the employee is not required to remain in any specific geographical area or required to return to work within a specific time period. Employees on such status may decline to return to work if contacted, without penalty, discipline or other reprisal if they acknowledge they are not fit to report to duty.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 7 | HR - Compensation and Changes in Status

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 10/22/2007

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 8.20.05

10/22/07 Policy approved by Board of Regents

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 7.14 – Call-back Pay for Non-Exempt Staff

arp.nmsu.edu/7-14

On–call employees who are required to return to work, or those other employees who are called back to work on a regularly scheduled on-duty day after going off-duty or who are called to work on a regularly scheduled off-duty day, shall be guaranteed a minimum of two (2) hours of pay for the actual time worked at the applicable straight time or overtime rate. For employees called back to work, paid time shall commence at the time the employee begins travel to report for work and ends at the completion of the call-back assignment.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 7 | HR - Compensation and Changes in Status

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 10/22/2007

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 8.20.10

10/22/07 Policy approved by Board of Regents

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 7.15 – Staff Degree Achievement Recognition

arp.nmsu.edu/7-15

Half-time or greater regular staff employees and faculty with above-average job performance who earn degrees from an accredited institution of higher education during their employment will be rewarded in appropriate ways whenever possible. Guidelines for this program are:

A. An employee will receive recognition only once for each type of degree awarded (i.e., associate's, bachelor's, master's, and doctorate). An employee shall not receive an increase for earning a lower degree than already held. An employee may only receive an increase for earning the same level degree as already held if the degree is directly related to the position and no increase has been previously awarded.
B. The salary increases will be effective on the first day of the month following award of the degree, or on the first day of the month in which a degree increment request is received by the Office of Human Resources Services, whichever is later.
C. Degree increments will not be paid on a retroactive basis.
D. Employees who have met the above criteria will be eligible for a salary increase of:
    1. 5 percent of their current salary, not to exceed $1,000, for an associate degree.
    2. 5 percent of their current salary, not to exceed $1,200, for a bachelor's degree.
    3. 5 percent of their current salary, not to exceed $1,400, for a master's degree.
    4. 5 percent of their current salary, not to exceed $1,600, for a doctorate.
E. This Rule does not apply to faculty who were hired at salaries comparable to others in the department who already have doctorates.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 7 | HR - Compensation and Changes in Status

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 01/30/2015

## Related

**Cross-Reference:**

**Revision History:**

2017 Recompilation, formerly Rule 7.05 F

01/30/15 Amendment approved by Board of Regents

06/20/13 Amendment approved by Board of Regents

05/06/11 Amendment approved by Board of Regents

07/20/10 Adoption of amendments ratified by Board of Regents

02/09/10 Amendment(s) approved by Board of Regents

11/10/09 Amendment(s) approved by Board of Regents

07/15/08 Adoption of amendment ratified by Board of Regents

07/08/08 Amendment approved by Administrative Council

10/22/07 Amendment ratified by Board of Regents

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 7.20 – Staff Overtime Pay or Comp Time

arp.nmsu.edu/7-20

## PART 1: EMPLOYEES EXEMPT FROM OVERTIME

Any individual employed in a bona fide executive, administrative, or exempt capacity, as defined by the Fair Labor Standards Act, may be exempted from compensatory time or payment of overtime. Employees so exempted shall be termed exempt. All other categories will be termed nonexempt. Exempt/nonexempt status will be determined by a review of the specific description of duties for the position in question. Positions having like classifications may receive different exempt/nonexempt classifications based on the specific duties and responsibilities required. The Office of Human Resource Services may be contacted for information regarding exempt/nonexempt status on any position.

## PART 2: OVERTIME ADMINISTRATION

A director/department head may prescribe reasonable periods of overtime work to meet the needs of an operation. A nonexempt employee may only work more than 40 hours a week after having obtained prior approval or instructions from the appropriate supervisor. Complete records of overtime for employees will be maintained in each department or office.

## PART 3: OVERTIME PAYMENT

Nonexempt employees as defined by the Fair Labor Standards Act are eligible to be compensated or given compensatory time for overtime. Upon election by the employee, overtime work may be compensated in the form of overtime pay or compensatory time off. Normally, employees who are eligible for payment of overtime will not work in excess of a 40-hour week. To prevent a backlog, workloads should be adjusted by determining needs sufficiently in advance so that temporary help may be hired. The university has no contractual obligation

to pay overtime or approve compensatory time. If it becomes necessary for nonexempt employees to work more than 40 hours in a week, the following will apply:

A. **Hours Worked Over Forty Per Work Week**: All regular, non-exempt, employees shall be paid for all hours worked in excess of forty (40) hours during a work week at the employee's regular rate of pay and at an additional 0.5 times for the overtime hours worked or be paid for all hours worked in excess of forty (40) hours during a work week at the employee's rate of pay and earn comp time at an additional 0.5 times the overtime hours worked.
B. **Excess Hours Worked Less than Forty Per Work Week**: When regular, part-time, employees are required to work more than their normal scheduled hours, but less than 40 hours per week, they will be paid for additional hours (at straight time rates) up to a total of 40 hours in a work week. All time worked in excess of 40 hours is subject to the provisions in #1 above.
C. When temporary employees are required to work more than their normal scheduled hours, but less than 40 hours per week, they will be paid for additional hours (at straight time rates) up to a total of 40 hours in a work week. All time worked in excess of 40 hours shall be paid at the employee's rate of pay and at an additional 0.5 times the overtime hours worked.
D. **Calculation of Overtime in Weeks with Paid Leave**: For the purpose of calculating overtime pay, time off from work resulting from a designated holiday or alternative holiday (ARP 8.56) or approved annual leave, sick leave, administrative leave, use of accrued compensatory time, or compassionate leave will be considered as hours worked. Except in these instances of authorized absences, the employee must have actually worked over 40 hours to qualify for overtime pay or comp time.

## PART 4: OVERTIME REPORTING

Nonexempt employees eligible for payment of overtime who are required to work in excess of 40 hours per week will report overtime hours worked on the university Compensation Overtime Report at the end of the pay period. The method for computing overtime is stated on the form.

## PART 5: COMPENSATORY TIME (COMP TIME)

The purpose of compensatory time is to provide an alternative to cash payment of overtime. A nonexempt employee may only work more than 40

hours a week after having obtained prior approval or instructions from the appropriate supervisor.

A. Upon election by the employee, overtime work may be compensated in the form of compensatory time off. When such form of compensation is elected, the employee shall be paid for all hours worked in excess of forty (40) hours during the work week (hereinafter "overtime hours") at the employee's regular hourly rate of pay and earn comp time at an additional .5 times the overtime hours worked. The university shall designate two (2) opportunities each year for employees' to elect to receive comp time for overtime hours worked, to be effective on January 1 and July 1.
B. The date to be taken as comp time off shall be scheduled by agreement between the supervisor and the employee. Supervisory approval for the use of comp time shall not be unreasonably withheld. A supervisor may direct that an employee use accrued comp time.
C. A maximum of one hundred and twenty (120) hours of comp time may be accrued in a fiscal year. Comp time earned for overtime and reported by the payroll deadline shall be accrued at the next regularly scheduled pay day. An employee may request payment of accrued comp time at any time, which shall then be paid at the next regularly scheduled pay day. All comp time must be used or paid by the end of each fiscal year or prior to transfer or termination.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 7 | HR - Compensation and Changes in Status

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 10/09/2018

## Related

**Cross-Reference:**
**See 2013 CBA Article 17, Sections 5, 7 and 8**

**Revision History:**

10/09/2018 Amendment approved by Chancellor
2017 Recompilation, formerly Rule 8.20 A - C and E - F
10/22/2007 Amendment ratified by Board of Regents

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 7.21 – University Closure Pay

arp.nmsu.edu/7-21

Personnel designated as essential to university operations may be required to work during a university closure, pursuant to **ARP 16.09 – University Closures – Authority and Required Notifications**. In such cases, nonexempt personnel who are required to work will receive closure pay (one and one-half times the employee's regular rate of pay) for the hours worked during the closure, in addition to their regular hourly pay.

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 7 | HR - Compensation and Changes in Status

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 01/28/2019

## Related

**Cross-Reference:**
**ARP 16.09 – University Emergency Closures**

**ARP 16.10 – Emergency Preparedness and Response**

**Revision History:**

01/28/2019 new ARP 7.21 approved by Board of Regents

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 7.25 – Non-Tenure Track Faculty – Salary and Benefits Eligibility

arp.nmsu.edu/7-25

Employing units will offer salaries to prospective college faculty on the basis of qualifications, availability of funding, and supply vs. demand, subject to the administrative approval procedures in effect for prospective tenure-track faculty. Salary scales for non-regular part-time, non-tenure-track faculty will be set each year for the Las Cruces campus and for the community colleges by the executive vice president and provost. Exceptions to the rates must be approved by the executive vice president and provost. These rates will be made available to all faculty. Non-tenure-track faculty who are in regular status are eligible for benefits as defined in ARP Chapter 8, HR-Benefits.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 7 | HR - Compensation and Changes in Status

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 06/20/2013

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 5.15.40 J

06/20/13 Amendment approved by Board of Regents

01/28/13 Proposition approved by Board of Regents

05/06/11 Amendment adoption approved by Board of Regents

07/20/10 Amendment adoption ratified by Board of Regents

2/09/10 Amendment approved by Administrative Council

07/29/09 Proposition ratified by Board of Regents

07/14/09 Proposition adopted by Administrative Council

10/07/07 Amendment approved by Board of Regents

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 7.30 – Tenure Track and Tenured Faculty – Salary Adjustments

arp.nmsu.edu/7-30

## A. Purpose

To establish a process for faculty compensation adjustments that address changes in cost of living, reward productivity and achievement, and correct market or equity disparities.

## B. Contingency

Salary increases are contingent upon the availability of funding. The availability of funds for salary increases is typically determined each year after the Board of Regents has approved the annual budget and the New Mexico legislature has appropriated funds for the operation of the university. All budgetary matters are subject to review and approval by the Board of Regents.

## C. Types of Salary Adjustments

Salary increases may be in the form of either a one-time nonrecurring payment, or an adjustment to the annual base salary. Examples of the different types of salary adjustments include: cost of living increase (COLA), promotion between ranks, merit, equity, or market competition and related factors.

## D. Eligibility for Salary Increase

Faculty eligible for salary adjustments are the tenured, tenure track and college track faculty. Faculty hired after December 31 of an academic year will not be eligible for a COLA or merit based salary adjustment until the first applicable pay period in the second subsequent fiscal year.

## E. Effective Date of Salary Increase

Salary increases are awarded effective with the first applicable pay period in the next fiscal year, unless otherwise approved by the Senior Vice President of Administration and Finance and the Executive Vice President and Provost or Chancellor.

## F. Disclosure of Information Relating to Faculty Salary Increases

Each year upon request, the executive vice president and provost will report to the faculty on how funds allocated for salary increases were distributed.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 7 | HR - Compensation and Changes in Status

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 03/14/2017

## Related

**Cross-Reference:**
(*See also* Rule 11.05 - Intellectual Property Management; Rule 5.92-Reassignment of Administrators/Department Heads)

**Revision History:**

2017 Recompilation, formerly Rule 5.25

03/14/17 Amendment approved by Chancellor

10/21/15 former Policy 5.25 replicated by Board of Regents as initial Rule 5.25

Prior Revision History not available.

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 7.31 – Faculty Compensation for Teaching Continuing Education

arp.nmsu.edu/7-31

It is the policy of the university that providing life-long learning through continuing education is an important part of *its* mission. In order to encourage faculty to participate in these activities, the faculty may earn extra compensation for teaching in continuing education programs in lieu of consulting. The extra compensation will normally be paid at a rate of 0.00278 X 9-month salary per hour of instruction. This rate is based on the assumption that 12 credits per semester, for two semesters, for 15 weeks is the normal load for an academic year. [0.00278 '1/(12 x 2 x 15)] – maximum rate. For purposes of E-Hire Forms, these hours must be kept separate from for-credit hours.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 7 | HR - Compensation and Changes in Status

**Rule Administrator:** Executive VP and Provost

**Last Updated:** Not Available

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 5.26

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 7.32 – Faculty Salary Increase for Promotion

arp.nmsu.edu/7-32

## PART 1: PURPOSE

To reward and incentivize faculty progress along the academic ranks, and assist the university with the retention of talented, capable and experienced faculty through the award of promotional increases to base salary.

## PART 2:  INCREASE TO BASE SALARY FOR PROMOTION BETWEEN FACULTY RANKS

### A. Funds Availability

Subject to the contingencies described in **ARP 7.30**, each tenured, tenure track and college track faculty member promoted to a higher rank shall receive an upward adjustment in base salary, prorated based on FTE, irrespective of any other salary increases.

### B. Calculation of Promotional Increase

The amount of the base salary increase for the promotion will be calculated using the mean salary of the incumbents in the rank to which the faculty member is being promoted.  If there were to be no incumbent at the higher rank in the promoted faculty member's track (e.g. tenured, tenure-track or college track) within the promoted faculty member's college or community college, as appropriate, an equitable promotion increment will be determined by the executive vice president and provost or community college president, as appropriate, in consultation with Human Resources.

1. **Promotion from Rank of Instructor to Assistant Professor**: Faculty promoted from the rank of instructor to assistant professor shall receive an upward adjustment to base salary of 7% of the current mean salary of all assistant professors within the college or community college, as appropriate, calculated separately for college and tenure track.

2. **Promotion from Rank of Assistant Professor to Associate Professor**: Faculty promoted from the rank of assistant professor to associate professor shall receive an upward adjustment to base salary of 7% of the current mean salary of all associate professors within the college or community college, as appropriate, calculated separately for college and tenure track.
3. **Promotion from Rank of Associate Professor to Professor**: Faculty promoted from the rank of associate professor to the rank of professor shall receive an upward adjustment to base salary of 11% of the current mean salary of all professors in the college or community college, as appropriate, calculated separately for college and tenure track.

### C. Effective Date

Consistent with **ARP 7.30**, this rule was implemented with the 2018/2019 Academic Year for eligible NMSU-Las Cruces faculty. This rule will be implemented with the 2019/2020 Academic Year for eligible community college faculty.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 7 | HR - Compensation and Changes in Status

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 10/09/2018

## Related

**Cross-Reference:**
**ARP 7.30 - Tenure Track and Tenured Faculty – Salary Adjustments**

**Revision History:**

10/09/2018 Amendment approved by Chancellor
2017 Recompilation, formerly Rule 5.27
03/14/2017 Amendment approved by Chancellor
10/21/2015 former Policy 5.25 replicated by Board of Regents as initial Rule 5.25
Prior revision history as Policy 5.25 not available

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 7.34 – Faculty Compensation – Summer Assignments

arp.nmsu.edu/7-34

## A. Teaching

For faculty at campuses whose faculty members have a normal teaching load of 24 credits during the regular year, summer teaching is paid at the rate 11.11% of annual salary for a 3 credit class or 3.70% of annual salary per credit hour. For faculty at campuses whose faculty members have a normal teaching load of 30 units during the regular year, summer teaching is paid at the rate of 8.31% of annual salary for a 3 credit class or 2.77% of annual salary per credit hour.

## B. Sponsored Research

Sponsored research is paid at a rate consistent with federal regulations including, but not limited to, those contained in OMB Circular A. 21. as administered by the Office of Naval Research.

## C. Combined Teaching-Sponsored Research

For those both teaching and engaged in sponsored research, summer pay is pro-rated between the two activities. The regular summer employment period is computed from the last workday after grades are due at the end of the spring semester until the first workday before Faculty are required to report in the fall semester. The pro-rating calculation shall be done consistent with OMB Circular A. 21.

## D. Negotiated Summer Salary

For persons who have no regular academic-year salary on which to base summer compensation, salary may be negotiated within the approved ranges for temporary faculty.

## E. Supplemental Compensation

The policies regarding supplemental compensation during the summer period are the same as those that apply to the academic-year period, as described in ARP 7.53 Additional Compensation for Supplemental NMSU Employment.

## F. 12-month Faculty

The policies pertaining to compensation for 12-month Faculty during the summer period, including department heads, are the same as those that apply to the academic year.

## G. Graduate Assistants

In summer sessions, graduate assistants receive the same pay per week as they do during the regular semester.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 7 | HR - Compensation and Changes in Status

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 07/20/2010

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 5.30

07/20/10 Amendment approved by Board of Regents

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 7.35 – Faculty Compensation – Faculty Retreat Rights

arp.nmsu.edu/7-35

Due to the larger scope of responsibility of most administrative positions, the reassignment of an administrator with faculty rank to a faculty position normally results in a reduction of salary. Several factors are considered in making the salary determination, including the level of faculty salaries in the department where the reassignment occurs. Normally, department heads who have less than 4 complete years return to 75 percent of their base salaries (not including department head increment), and department heads who serve 4 or more years return to 80 percent of their base salaries. Again, several factors are considered in making the salary determination, including the level of faculty salaries in the department where the reassignment occurs.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 7 | HR - Compensation and Changes in Status

**Rule Administrator:** Executive VP and Provost

**Last Updated:** Not Available

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 5.92

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 7.52 – Staff Reclassification

arp.nmsu.edu/7-52

The level and/or grade of positions are determined by the Office of Human Resource Services as authorized by the executive vice president and provost. The Office of Human Resource Services may direct, through the executive vice president and provost, that duties be added, taken away or reassigned from existing positions in order to correspond with currently authorized levels and/or grades

## A. Nonexempt Staff Positions

1. A supervisor requesting to make significant changes in the duties and responsibilities of a position may prepare a Position Description Questionnaire detailing the characteristics, duties, responsibilities and minimum qualifications of the position in question. After obtaining the comments and signatures of the employee when appropriate, the department head/director, and the dean/vice president, the supervisor should forward the completed Position Description Questionnaire to the Office of Human Resource Services for a reclassification review.
2. A regular non-probationary employee who has reason to believe a position is misclassified may request a classification review. The Position Description Questionnaire will be sent through channels to the Office of Human Resource Services. Supervisors should comment on the Position Description Questionnaire and forward through channels.
3. Reclassification requests will be considered three times per year. Requests submitted in June, July, August, and September will be reviewed in October and effective in November. Requests submitted in October, November, December, and January will be reviewed in February and effective in March. Requests submitted in February, March, April, and May will be reviewed in June and effective in July.
4. Reclassification requests of new or vacant positions are considered upon submission.
5. The director/department head and/or the employee may appeal the reclassification review decision to the assistant vice president for human resource services within 15 working days of receiving notification of the decision.
6. The decision of the assistant vice president for human resource services may be appealed within 15 working days to the executive vice president and provost, whose decision is final.

7. A nonexempt reclassification action which results in an upgrade of more than 3 grades is normally advertised except when there is no interim career grade or is specifically exempted by the Office of Human Resource Services. Reclassification of a position does not, however, guarantee promotion of an incumbent employee. If the incumbent does not have the experience, knowledge, skills or ability to perform the responsibilities of the reclassified position, the incumbent will be considered for transfer.
8. When a position is changed to a classification with a lower grade, the incumbent may be considered for transfer to an appropriate vacant position.
9. The employee's probationary status will not change.
10. Reclassification requests to change a position from nonexempt to exempt status may be submitted in accordance with the procedure outlined below for exempt positions.

## B. Exempt Staff Positions

1. A supervisor requesting to make major changes in level, title, responsibilities, or salary range of an exempt position may submit an exempt Position Description Questionnaire and a request in memorandum form through the Office of Human Resource Services to the executive vice president and provost for review and consideration.
2. A regular exempt non-probationary employee who has reason to believe a position is misclassified may request a classification review.
3. The director/department head and/or the employee may appeal the reclassification review decision to the assistant vice president for human resource services within 15 working days of receiving notification of the decision.
4. The decision of the assistant vice president for human resource services may be appealed within 15 working days to the executive vice president and provost, whose decision is final.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 7 | HR - Compensation and Changes in Status

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** Not Available

## Related

**Cross-Reference:**

**Revision History:**

2017 Recompilation, formerly Rule 8.55 B.

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 7.53 – Additional Compensation for Supplemental NMSU Employment

arp.nmsu.edu/7-53

## A. Rule Permitting Supplemental Compensation

Supplemental compensation may be paid to faculty and staff acting in the capacity of a professional/faculty employee for an additional assignment performed during normal university working hours, providing that assignment is (1) clearly outside the scope of that person's regular teaching, research and service responsibilities; and (2) does not interfere with those responsibilities. Such time will be counted against a faculty member's allowed consulting time and must be approved in advance by all cognizant administrators, including the executive vice president and provost. Additional compensation is submitted for approval by the completion of an E-Hire Form. This compensation may be authorized in addition to regular salary for those employees exempt from overtime provisions of the Fair Labor Standards Act and is used to authorize payment for consulting, workshops, etc. Supplemental compensation will not be paid solely on the basis that the salary has been budgeted into the agreement.

## B. Supplemental Employment Guidelines

1. Applicable only to faculty, or those staff acting in the capacity of a professional/faculty employee.
2. Applicable only to employees currently employed during the period when the supplemental compensation was earned.
3. The rate of pay should not exceed the employee's current rate of pay in the employee's primary job assignment. Under those special circumstances where a request exceeds the employee's rate of pay, a special memo of justification approved by the Office of the Executive Vice President and Provost must be attached to the form. Hours worked (a) should not exceed a reasonable percentage of full-time hours (Any percentage greater than 50 percent must be justified in an attached memo); (b) must be properly documented per grant/contract requirements.
4. Only in unusual cases may an exempt staff and faculty member be paid to work on a grant or contract, as consultants or otherwise, if that effort results in payment in

excess of 100 percent FTE unless specifically provided for, as supplemental compensation, in the agreement or approved in writing by the sponsoring agency. For federal grants and contracts, approval will normally be granted only if two conditions exist:

a. The work is across departmental lines or involves a separate or remote location; and
b. The work performed by the employee is in addition to the regular departmental workload.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 7 | HR - Compensation and Changes in Status

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** Not Available

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 4.70

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 7.60 – Transfers

arp.nmsu.edu/7-60

The university reserves the right to transfer or assign employees throughout the university as workloads and administrative judgment deem necessary.

## A. Staff Transfers

1. Two appointing authorities may laterally transfer, voluntarily or involuntarily, a nonexempt employee from a position in a classification and grade to another position in the same grade within a major organizational unit, such as a college or division with approval of the assistant vice president for human resource services.
2. To cross college or division lines, a request must be made in writing to the assistant vice president for human resource services.
3. Exempt employees may be laterally transferred voluntarily or involuntarily throughout the university with prior approval from the assistant vice president for human resource services and executive vice president and provost.
4. The employee's education and experience should correspond with those required by the position being transferred to.
5. A salary adjustment will not normally be awarded if the position to which employee is transferred is similar in overall duties and responsibilities.
6. An E-Hire Form, leave records, and performance evaluation form will be submitted after approval for transfer has been obtained.
7. Requests for transfer, initiated by nonexempt employees, will be made on a Transfer Request Form obtained in the Office of Human Resource Services. Each request will be evaluated by the merits of the situation.
8. Employees with overall needs improvement or unsatisfactory ratings are ineligible for transfer consideration.
9. Employees serving any type of probationary period may not transfer outside of their organizational unit without obtaining a written release from their current supervisor.

## B. Faculty Transfers

Normally there are four types of transfers of faculty members within various agencies of the

university:

1. A faculty member leaving an instructional/research department to serve in a different instructional/research department. Under these circumstances, the individual may be given credit toward a continuous contract for the years served in the earlier department. With proper departmental and college vote, and the completion of a Contract Status Form by the new department, tenure may be transferred with a faculty member from one department to another.
2. The transfer of a faculty member from a non-instructional division to an instructional division or vice versa. Under these circumstances, years of service in the prior position will not necessarily count toward a continuous contract in the new position. Proven performance in the first position, under these circumstances, might not assure that the individual would be able to render satisfactory professional service in the new area of assignment.
3. The transfer of a faculty member from the university community college campuses to an instructional division on the main campus or vice versa. Under these circumstances, years of service in the prior position will not necessarily count toward a continuous contract in the new position or assure appointment in an equivalent rank. Proven performance in the community college or main campus position might not assure that the individual meets the rank requirements of the new position.
4. The transfer of a faculty member from one community college to another: Under these circumstances, the individual may be given credit towards a continuous contract and rank for the years in the previous community college.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 7 | HR - Compensation and Changes in Status

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 07/29/2009

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 8.70 & 5.98 J.

07/29/09 Amendment approved by Board of Regents

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 7.65 – Reductions in Force

arp.nmsu.edu/7-65

A. Layoff, transfer and recall, due to a university wide financial exigency of positions funded from state appropriations as a line item, will be made in accordance with this Rule.
B. Transfer, recall, and termination policy for employees (below the rank of director) who are facing termination for reasons other than a university wide financial exigency shall be as follows:
    1. It is the policy of the university to attempt to transfer any non-probationary, satisfactorily performing employee who will be laid off as a result of a reduction in force, reorganization, or job elimination.
    2. Employees may be transferred to like positions for which they are qualified on the basis of seniority (i.e., service within both the university and the department, along with past work performance) as vacancies occur.
    3. Those individuals not transferred by their termination date will be placed on leave without pay in accordance with the rules and procedures provided in **ARP 8.55 Leaves – Without Pay**.
    4. The university may recall non-probationary employees on a seniority basis whenever possible, with those having the most seniority and good work records recalled first. Recall rights are limited to the first 90 calendar days after layoff.
    5. The transfer or recall of employees to other positions may result in a different rate of pay, level, and job title.
    6. Specific plans for any area which is terminating employees will be prepared at the time of the layoff, reviewed by the assistant vice president for human resource services and approved by the executive vice president and provost.
    7. Salary and wage rate will be in accordance with **ARP 7.30-Tenure-Track and Tenured Faculty – Salary Adjustments** or **ARP 7.01-Staff Compensation**.
C. This Rule is not applicable to positions when wages are derived from external funds or other non-instructional type funding. Departmental layoff plans may be developed and submitted to the executive vice president and provost through the assistant vice president for human resource services for these positions, if necessary. All terminations due to a layoff must have the prior approval of the assistant vice president for human resource services and executive vice president and provost. Any employee whose position is federally funded, and who is facing involuntary leave due to a temporary federal financial shortfall, may choose to use annual leave *or* leave

without pay during the required absence. Leave without pay requests should be processed in accordance with **ARP 8.55 Leaves – Without Pay**.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 7 | HR - Compensation and Changes in Status

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** Not Available

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 4.05.70

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 7.70 – Separation from NMSU Service

arp.nmsu.edu/7-70

When an individual leaves employment with the university, a number of details must be attended to, both by the employee and the employing department. Employees separating from the university should make arrangements to return all university property in their possession and settle any accounts with the university prior to their separation. Property should be returned when an employee transfers from one department to another department within the university as well. Examples of property that should be returned include, but are not limited to: keys, identification cards, university -issued credit cards, computer hardware and software, cell phones, classroom materials (such as grade books/files, completed exams), sponsored project files, etc. Accounts to be settled may include such things as parking or library fines, tuition and fees, advances or overpays, personal phone calls, and so on. Departing employees may need to make arrangements with the Office of Human Resource Services regarding such things as health insurance and retirement rollovers as well.

Supervisors of employing departments are separately responsible for ensuring that required forms and notifications to payroll and the Office of Human Resources are submitted in a timely manner, and that access to university property and systems is terminated by having combinations changed, canceling computer system access codes, etc. Computer hard drives should also be checked for sensitive information and unlicensed software.

An optional NMSU Separation Checklist is available that employees and employing departments may find helpful in the separation process and can be found at: HR Forms Employee Separation Checklist

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 7 | HR - Compensation and Changes in Status

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** Not Available

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 4.26

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 7.71 – Resignation- Notice Required; Impact on Benefits

arp.nmsu.edu/7-71

## A. Notice Required for Resignation from the University

A nonexempt employee who desires to separate from university employment should submit a signed resignation statement to the appointing authority two (2) weeks prior to the intended resignation date.

Exempt employees should give thirty (30) days written notice prior to termination.

If the employee resigns by phone or is otherwise not available to submit a letter/notice of resignation, the supervisor should document all relevant information and forward to the Office of Human Resource Services in accordance with applicable procedures.

## B. Notice Required for Intra-NMSU Career Moves

Employees who have accepted another position within NMSU should provide the notice referenced above to the department the employee is leaving, unless an alternative arrangement can be reached between the former supervisor and the new supervisor.

## C. Impact of Resignation to Benefits

All benefit coverages cease at midnight of the last day of the pay period in which the employee's separation from service date falls. Employees will be responsible for payment of the benefit premiums, if the employee's final paycheck is not large enough to cover the benefit deductions to maintain coverage through the last day of the pay period.

## D. Withdrawal of Resignation/Reinstatement of Benefits

At the discretion of the Office of Human Resource Services, in consultation with the appropriate supervisor and/or administrative staff, a resignation from an employee otherwise in good standing may be permitted to be withdrawn.

In the event a resignation is permitted to be withdrawn, employment benefits, including but not limited to seniority and accrued leave, may be reinstated, provided no more than five (5) business days have passed from the date of official cessation of benefits.

The decisions by the Office of Human Resource Services relating to requests to withdraw a resignation or for reinstatement of benefits may not be appealed.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 7 | HR - Compensation and Changes in Status

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 03/14/2011

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 8.60

03/14/11 approved by Board of Regents

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 7.75 – Ineligibility for Rehire Designation

arp.nmsu.edu/7-75

## PART 1: PURPOSE

This rule protects NMSU from rehiring or contracting with former employees who separated from NMSU due to improper or incompetent conduct detrimental to the mission and interests of the university, or while under scrutiny due to allegations of such conduct.

## PART 2: INELIGIBLITY DESIGNATION

An individual who voluntarily or involuntarily separates from NMSU employment under any of the following circumstances is designated as ineligible for rehire: (1) the employment at NMSU is terminated for just cause, (2) the individual resigns or retires while the subject of an investigation into allegations of serious misconduct or after a notice of intent to terminate employment has been issued to the individual, or (3) serious misconduct by the individual is discovered and substantiated after the employee resigns or retires. For misconduct discovered after the separation to result in a designation of ineligibility for rehire, the misconduct must be of such a nature that it would have supported an involuntary termination under the applicable disciplinary policy and procedures.

## PART 3: PROCESS

A. **Effectuating Designation**. Consistent with Parts 1 and 2 above, when circumstances warrant a designation of ineligible for rehire, the director of Human Resources Services – Employment and Labor Relations (HRS-ELR) will effectuate the designation in the appropriate personnel record and relay the information to Procurement Services.
B. **Petition for Reinstatement**: Any individual who has been designated as ineligible for rehire may petition for reinstatement of eligibility. In cases where the individual believes that the designation was improper, the individual may petition at any time. In other cases where the

designation was initially valid, after a period of one year has elapsed, the individual may petition for reinstatement of eligibility based upon a change of circumstances indicating that (1) the individual is unlikely to repeat the conduct resulting in the designation, and (2) is capable and likely to make a positive contribution to some aspect of the university mission. The affected individual may contest the designation as ineligible for rehire or petition for removal of the designation by submitting a written Petition for Ineligibility Review to the associate vice president for human resource services (AVP HRS), along with any supporting documentation.

C. **Response to Petition**: Within 30 days after receipt of the petition, the AVP-HRS will review the petition and any submitted information, will make any further inquiries considered appropriate, and will issue and will make a decision to grant or deny the petition. Where the petition is denied, the matter is closed and another petition may not be filed for a period of one year. Where the petition is granted, the AVP-HRS will cause the designation to be removed from the individual's personnel record, Procurement Services will be notified, and the individual will be notified of their renewed eligibility for employment and contracting at New Mexico State University.

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 7 | HR - Compensation and Changes in Status

**Rule Administrator:** AVP Human Resource Services

**Last Updated:**
03/13/2019

## Related

**Cross-Reference:**
**Appendix – ARP 7.75-A – Flowchart of Procedures to Determine Eligibility for Rehire Status**

**Revision History:**

03/13/2019 Amendment approved by Chancellor
2017 Recompilation, formerly Rule 4.30.30
04/12/2016 Amendment approved by Chancellor

10/21/2015 Policy 4.30.30 approved as initial Rule 4.30.30 by Board of Regents

05/11/2012 Amendment approved for Policy 4.30.30 by Board of Regents

07/15/2008 NMSU Policy 8.40.1 adoption approved by Board of Regents

06/10/2008 NMSU Policy 8.40.1 adopted by Administrative Council

---

© 2017 New Mexico State University - Board of Regents

# Chapter 8 | HR-Benefits

## Subsections in Chapter 8


- 8.01 – New Employee Orientation
- 8.02 – Identification Card Issuance Procedures
- 8.03 – Domestic Partner Eligibility for Benefits
- 8.04 – Authority to Provide Distinct Benefits for Externally Funded Employees
- 8.11 – Social Security (FICA)
- 8.12 – Retirement, Educational (ERB)
- 8.13 – Deferred Compensation (457 Program)
- 8.14 – Flexible Spending Account
- 8.15 – Pre-Tax Premium Plan
- 8.16 – Tax Sheltered Annuities
- 8.17 – United States Savings Bonds
- 8.21 – Group Medical Insurance
- 8.22 – Group Dental Plan
- 8.23 – Group Term Life Insurance
- 8.24 – Group Long-Term Disability Insurance
- 8.25 – Supplemental Life Insurance/Voluntary Life Insurance
- 8.26 – Voluntary Accidental Death and Dismemberment Insurance
- 8.27 – Vision Insurance
- 8.28 – Sick Leave Bank
- 8.31 – Duty to Request/Approve and Track Leave Usage
- 8.40 – Types of Authorized Leave of Absence (LOA)
- 8.41 – LOA – Annual
- 8.42 – LOA – Faculty Care Leave
- 8.43 – LOA – Sick

- 8.44 – LOA – Domestic Abuse
- 8.45 – LOA – Family and Medical
- 8.46 – LOA – Military
- 8.47 – LOA – Compassionate
- 8.48 – LOA – Course Registration
- 8.49 – LOA – Voting
- 8.50 – LOA – Jury and Witness
- 8.51 – LOA – On-Campus Job Interview
- 8.52 – LOA – Educational (With and Without Pay)
- 8.53 – LOA – Professional Leave (Without Pay)
- 8.54 – LOA – Sabbatical
- 8.55 – Leave Without Pay
- 8.56 – Holiday Leave Benefit
- 8.57 – Academic Department Head – Leaves
- 8.61 – Tuition Remission Program
- 8.62 – Employee Assistance Program
- 8.63 – Faculty, Staff, Student Access to Certain Recreational Facilities
- 8.64 – Discounted Athletics Tickets for Eligible Faculty/Staff
- 8.65 – Emeritus Status
- 8.71 – Unemployment Compensation Benefits
- 8.72 – Workers' Compensation Benefits and Other Assistance

## ARP Maintenance

The Administrative Rules and Procedures (ARP) is maintained by **University General Counsel**.

Inquiries should be directed to **gencounsel@nmsu.edu**

ARP History

## Policy Maintenance

The Administrative Rules and Procedures of NMSU Manual is maintained by University General Counsel. Inquiries should be directed to **gencounsel@nmsu.edu**.

## Proposals Under Review

Proposals for new and revised rules are available to NMSU stakeholders on the UGC SharePoint site.

UGC SharePoint Site

## Related Sites

**University General Counsel**

**Regents Policy Manual**

**Business Procedures Manual**

**Other University Regulations**

**Board of Regents**

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 8.01 – New Employee Orientation

arp.nmsu.edu/8-01

**A**. All benefit eligible employees are encouraged to either attend a New Employee Orientation group session or review the orientation information and handouts on the NMSU benefits web site within 31 days of employment.A. All benefit eligible employees are encouraged to either attend a New Employee Orientation group session or review the orientation information and handouts on the NMSU benefits web site within 31 days of employment.

**B**. It is the employing department's responsibility to provide employees with benefits enrollment information within their first 31 days of eligible employment, and to notify employees of their option to either attend a New Employee Orientation group session or review the orientation information.

**C**. The online information is available on the NMSU benefits web site.

Employees who do not enroll within established deadlines for the university insurance plans are subject to late enrollment provision, when applicable.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 8 | HR-Benefits

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 06/15/2017

## Related

**Cross-Reference:**
**Revision History:**

[Re-numbered in the June 2017 ARP Recompilation (formerly Rule 7.23)] [Amendments ratified by the Board of Regents 10.22.07] [Amendment recommended by the Administrative Council 06.11.13; approved by the Board of Regents 06.20.13]

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 8.02 – Identification Card Issuance Procedures

arp.nmsu.edu/8-02

## A. Permanent ID Cards

Regular and term employees are issued a permanent identification card.

## B. Temporary ID Cards

Non-regular temporary employees will be issued temporary identification cards. Other persons eligible for identification cards include campus ministers (and associated persons) and affiliated faculty/staff.

## C. Issuance Procedures

Employees may have their pictures taken at the ID Card Services in Corbett Center and receive their printed NMSU ID card with a valid picture ID.

## D. Proof of ID Card Required

The identification cards are required for admittance into the Activity Center, Natatorium, for ticket discounts, library privileges and to obtain a parking permit.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 8 | HR-Benefits

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 06/15/2017

## Related

**Cross-Reference:**
**Revision History:**

[Re-titled and re-numbered in the May 2017 Recompilation (formerly Rule 7.11, Identification Cards)] [Amendment recommended by the Administrative Council 06.11.13; approved by the Board of Regents 06.20.13]

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 8.03 – Domestic Partner Eligibility for Benefits

arp.nmsu.edu/8-03

## A. Purpose

To ensure equal employment and educational opportunities to all employees at New Mexico State University; to provide HR benefits to qualified domestic partners.

## B. Definitions

1. **Qualified Domestic Partner**: A qualified domestic partner is each member of qualified domestic partnership, defined as two individuals who live together in an exclusive relationship of indefinite duration, who have satisfied the requirements reflected in the "Affidavit of Domestic Partnership", available on the NMSU Benefit Services website.

## C. Rule Statements

1. All qualified domestic partners, and their eligible dependents, shall be provided the same services and benefits as those provided to legally recognized spouses and their dependents, unless expressly prohibited by law. Eligible dependents for benefit purposes are defined on the NMSU Benefit Services website based on benefit type.
2. All benefit policies that affect employees, legally recognized spouses and their families shall also apply to employees, domestic partners and their families, such as insurances and tuition benefits.
3. The value of tuition and insurance benefits provided to the domestic partner is considered taxable income to the employee by the Internal Revenue Service and is subject to social security, federal, and state income tax withholding.

## D. Related Procedures and Forms

In accordance with **RPM 1.10** and **ARP 1.10**, the policy administrator may issue supplemental procedural guidelines and/or forms. Such procedures shall not conflict with this Rule, and are intended to facilitate the implementation, application, and enforcement of this Rule. Such procedures and forms shall be posted on the NMSU Benefits website.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 8 | HR-Benefits

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 06/15/2017

## Related

**Cross-Reference:**
Regents Policy and Rule 1.10

**Revision History:**

[Re-numbered in the June 2017 ARP Recompilation (formerly Rule 7.04)] [Amendment recommended by the Administrative Council 06.11.13; approved by the Board of Regents 06.20.13] [Amendment recommended by the Administrative Council 03.11.14; approved by the Board of Regents 04.03.14]

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 8.04 – Authority to Provide Distinct Benefits for Externally Funded Employees

arp.nmsu.edu/8-04

The Chancellor is authorized to develop and implement alternative leave, holiday, compensation, and insurance programs for groups of employees whose salaries are funded from external sources.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 8 | HR-Benefits

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 06/15/2017

## Related

**Cross-Reference:**
**Revision History:**

[Re-titled and re-numbered in the June 2017 Recompilation (formerly Rule 7.20.40, Leaves - Employees Funded from External Sources)]

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 8.11 – Social Security (FICA)

arp.nmsu.edu/8-11

University employees, except those with federal appointments or non-resident aliens with tax treaty exceptions, are covered by social security. Student and graduate student employees who maintain part-time enrollment are generally exempt from Social Security and Medicare tax under the IRS Student Exemption Regulation. Payment is made by monthly payroll deduction at a rate set by law, with a matching contribution by the university. (Current rates may be obtained from the Office of Human Resource Services.) Each applicant must possess a social security card in order to be employed. If an applicant does not have a social security card or requests the use of a name that is different in any way from the name on the card, it is the responsibility of the applicant to have the matter corrected at the nearest Social Security Administration Office.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 8 | HR-Benefits

**Rule Administrator:** Chief Information Security Officer

**Last Updated:** 06/15/2017

## Related

**Cross-Reference:**
**Revision History:**

[Re-numbered in the June 2017 ARP Recompilation (formerly Rule 7.30)] [Amendment recommended by the Administrative Council 06.11.13; approved by the Board of Regents 06.20.13]

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 8.12 – Retirement, Educational (ERB)

arp.nmsu.edu/8-12

## PART 1: PURPOSE

To clarify retirement benefits offered and/or required of university employees by the New Mexico Educational Retirement Board (NM ERB).

## PART 2: RULE ADMINISTRATOR

The Office of Human Resource Services administers this Rule, consistent with the New Mexico Retirement Act, and guidance from the NM ERB.

## PART 3: DEFINITIONS

**(See Also ARP 6.15, Part 4)**

NM ERB refers to the state of New Mexico's Educational Retirement Board, the statutorily authorized administrator of the New Mexico Educational Retirement Act, NMSA 1978, 22-11-1 through 22-11-55, which governs the retirement rights of eligible employees.

## PART 4: RULE STATEMENTS(S)

A. **Membership**: As a condition of employment, all eligible employees are required to participate in the Educational Retirement and Disability Plan for educational institutions in the state of New Mexico as administered by the New Mexico Educational Retirement Board (NM ERB). Certain employees may qualify to participate in an Alternative Retirement Plan (an optional defined-contribution plan). Eligible employees have a limited period of time from the date of hire to exercise this option. While the alternative retirement plan is distinct from the defined benefit plan (directly administered by the NM ERB), retirees under the alternative retirement plan are still considered NM ERB retirees. Details regarding this option are available by contacting the Office of Human Resource Services, or at the NM ERB Website. Employees who are not eligible to participate include the following:
    1. NM ERB retirees who are re-employed under the NM ERB's Return to Work Provision and work an amount equal to 0.25 FTE (i.e. 25% of the full-time equivalency);
    2. All employees, whether retired or not, who work .25 FTE or less per fiscal year and have not chosen to work under the NM ERB's Return to Work Program;
    3. All students enrolled in any public school, grades 1-12;
    4. Student employees (including graduate assistants);
    5. All personnel of the Cooperative Extension Service who are on federal appointment are required to participate in the Federal Civil Service Retirement Program. This group consists of county extension agents, extension home economists, and state office (supervisory) personnel who have the option of exempting themselves from membership in the New Mexico Educational Retirement Plan. This option must be determined by the employee within the first 6 months of employment by the university, after which time the employee may not exempt themselves, but may revoke the exemption;
    6. Public Employee Retirement Act (PERA) retirees who have not rescinded their PERA retirement. (Effective July 1, 2019, PERA retirees who work for an NM ERB employer will pay non- refundable contributions and will not earn service credit.)
    7. Employees deemed exempt prior to July l, 1971; however, such employees may revoke their exemption at any future date by completing the necessary forms.
B. **Contributions and Withdrawals:** Contributions are made according to the New Mexico Educational Retirement Act, and the NM ERB rules/regulations. Employees may withdraw their contributions upon termination of employment.

C. **Request for Retirement and Options Elections:** Approximately 3 months prior to the desired retirement date, the employee should contact the Office of Human Resource Services to complete appropriate retirement application forms. The NM ERB will send the employee information regarding benefits to be received. The Office of Human Resource Services will provide information explaining the benefits available after retirement.

D. **NMSU Retiree Benefit Eligibility:** An employee will be considered eligible for certain university retirement benefits if the following criteria are met (The university reserves the right to unilaterally increase, decrease or discontinue all or any retiree benefits and/or charges associated with available benefits.):
   1. An employee has at least 10 continuous years of service, in the status of regular employee at .5 FTE or more, without a break in service during the 10 years prior to the date of retirement, and receives NM ERB benefits immediately upon termination of employment;
   2. An employee is eligible for retirement under NM ERB rules/regulations at the time of termination of employment at the university.
   3. An employee of the Cooperative Extension Service must be eligible for and receive federal retirement.

E. **Benefits Offered by NMSU to NMSU Retirees:** The following is a list of the university-provided, nontransferable benefits available to eligible NMSU retirees, and if indicated (*), to their spouse or domestic partner:
   1. Discounted admission to various Music Department concerts, and plays
   2. Aggie Fit Membership
   3. Discount Rates for Athletic Events (Season tickets only)*
   4. Discount Rates for the NMSU Golf Course*
   5. Receipt of university General Publications*
   6. Library privileges
   7. Bookstore 10 Percent Discount (Some Exclusions Apply)*
   8. Parking Permit (Subject to fees, depending on date of retirement)
   9. Remission of Tuition and Fees Up Through a Full Load of Classes (Spouse may enroll for one free course if the retiree is not enrolled*)
   10. Dependent Tuition Waiver
   11. Official university E-mail Address (username@nmsu.edu)

## PART 5: PROCEDURAL GUIDELINES AND FORMS

Consistent with **RPM 1.10** and **ARP 1.10**, the Assistant Vice President for Human Resource Services may promulgate and post supplemental guidelines and/or required forms, to facilitate implementation, application or enforcement of this Rule.

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 8 | HR-Benefits

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 10/09/2019

## Related

**Cross-Reference:**
**RPM 1.10 - NMSU System Policies and Procedures**

**ARP 1.10 - Procedures to Revise NMSU Policies and Rules**

**ARP 6.15 - Re-Employment of Retirees**

***See also:***

**ARP 8.65 – Emeritus Status**

**Revision History:**
10/09/2019 Amendment approved by Chancellor
2017 Recompilation, formerly Rule 7.26
08/19/2013 Amendment approved by Board of Regents
06/20/2013 Amendment approved by Board of Regents
10/22/2007 Amendment approved by Board of Regents

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 8.13 – Deferred Compensation (457 Program)

arp.nmsu.edu/8-13

## A. Eligibility to Participate

This Rule authorizes eligible employees to elect participation in the university's voluntary deferred compensation program. All employees are eligible to exclude a portion of their salary, within IRS prescribed limits, from their current taxable income and invest those contributions in a university approved deferred compensation plan.

## B. Payroll Deduction

**Method of Contribution:** Contributions are made via payroll deduction.

## C. Supplemental to ERB

The employee's contribution to an approved deferred compensation program may be in addition to the New Mexico Educational Retirement Account, the New Mexico Alternative Retirement Program and Tax Sheltered Annuity (403b) contributions.

## D. Selection of Program

Employees may choose from a list of approved companies that offer 457 programs for the university.

## E. Cessation of Coverage

The employee's deferred compensation contributions cease when an employee terminates employment, retires, completes a Salary Reduction Agreement to cancel participation to the program or when contributions have exceeded annual maximums permitted by the IRS. The university will set all 457 contribution amounts with a maximum allowed by the IRS, unless otherwise instructed by the employee on the salary reduction form.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 8 | HR-Benefits

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 06/15/2017

## Related

**Cross-Reference:**
**Revision History:**

[Re-numbered in the June 2017 ARP Recompilation (formerly Rule 7.03)] ][Amendment ratified by Board of Regents 10.22.07] [Amendment approved by the Administrative Council 02.09.10; adoption of amendment ratified by the Board of Regents 07.20.10][Amendment recommended by the Administrative Council 07.27.11; approved by the Board of Regents 08.22.11]

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 8.14 – Flexible Spending Account

arp.nmsu.edu/8-14

## A. Description of Flexible Spending Account

Flexible Spending Accounts allow employees to set aside dollars from their paycheck on a pre-tax basis in order to be reimbursed for out-of-pocket health care and child care expenses for themselves and their eligible dependents as defined by IRS codes.

## B. Eligibility and Deadline to Enroll

Effective July 1, 2016, regular and non-regular term appointment employees who work at least a .75 FTE are eligible for this plan within the first 31 days following their hire date, with the plan becoming effective the first day of the month following receipt of the enrollment form in the Office of Human Resources. If an employee does not return a completed and signed enrollment form to the Office of Human Resource Services department within their first 31 days of employment, they will not be eligible to participate in the plan until the next open enrollment period. Eligible employees also include any employee continuously enrolled in this benefit from June 30, 2016.

## C. Periodic Open Enrollment

Open enrollment occurs during the fall of each year with any changes or new enrollments becoming effective January 1st. During open enrollment eligible employees who are not currently enrolled in the plan may enroll and employees currently enrolled in the plan must complete paperwork to continue the plan.

## D. Changes to Plan

Employees may only make changes or new enrollments to their plan outside of the open enrollment period within 31 days after a change in status occurs. The proper forms must be executed with the Office of Human Resource Services department within the 31-day period. Examples of a change in status include but are not limited to:

1. Marriage
2. Divorce
3. Legal Separation
4. Childbirth
5. Adoption of child
6. Death
7. Loss of prior coverage
8. Loss of dependent status

## E. Account Balance After Change to Plan

If a change in status occurs and an employee elects to reduce or cancel coverage, the employee may not reduce or cancel coverage to a point where the total plan year account balance is less than the amount of funds already reimbursed for the employee. An employee's account balance after a change has been made during a plan year will be calculated by adding any balance (including a negative balance) remaining in the employee's account immediately preceding the change, to the newly elected plan year election amount for the remainder of the plan year in which the change in status took place.

## F. Cancellation of Plan/Refunds

If coverage is cancelled, no refund of contributions will be made and no claims incurred after the last day of the month in which the change in status occurred will be eligible for reimbursement.

## G. Contributions During LWOP Status

While on leave without pay, employees are responsible for continuing to make contributions to the plan. If contributions are not made, the plan can be cancelled for the remainder of the plan year. The employee will only be eligible to rejoin the plan during the next open enrollment period held in the fall of each year with the plan becoming effective January 1st.

## H. Issues Upon Separation From Employment

If an employee separates employment from the university, coverage will continue until the last day of the month in which they were employed and claims incurred during that time may be submitted for payment no later than 90 days following the plan year. Employees are allowed to continue the coverage following separation through COBRA.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 8 | HR-Benefits

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 06/15/2017

## Related

**Cross-Reference:**
**Revision History:**

[Re-numbered in the June 2017 ARP Recompilation (formerly Rule 7.09)] [06.14.16 University Administrative Council recommended; 06.21.16 Chancellor approved; 06.27.16 BOR approved change in Benefits. 10.21.15: BOR approved Policy 7.09 as initial Rule 7.09. Prior Revision History as Policy 7.09: 06.11.13 amendment recommended by Administrative Council; 06.20.13 approved by Board of Regent. 06.10.08 amendment approved by Administrative Council; 07.15.08 adoption of amendment ratified by Board of Regents. Amendment ratified by Board of Regents 10.22.07.]

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 8.15 – Pre-Tax Premium Plan

arp.nmsu.edu/8-15

The Pre-Tax Premium Plan allows employees enrolled in the university's health and dental insurance programs to decrease their taxable income by the amount of the employee portion of premiums. This plan is subject to guidelines set forth by the United States Internal Revenue Service. Employees must either enroll in or waive coverage within their first 31 days of employment. If an employee does not complete a form to either enroll in or waive coverage, the employee will waive their right to enrollment in the plan and will not be allowed to enroll until the next open enrollment period held in the spring of each year. Employees may make changes to their coverage (including termination of the plan) during the open enrollment period held in the spring of each year with changes going into effect on July 1. Enrollment in this plan limits the employee's ability to add, change or delete coverage in the health and dental insurance programs. *See* the benefit booklet provided in the Employee Benefits Office for more information.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 8 | HR-Benefits

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 06/15/2017

## Related

**Cross-Reference:**
**Revision History:**

[Re-numbered in the June 2017 ARP Recompilation (formerly Rule 7.24)]

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 8.16 – Tax Sheltered Annuities

arp.nmsu.edu/8-16

The university provides voluntary tax sheltered annuities. This program allows all employees to exclude a portion of their salary, within certain limits, from their current taxable income by electing to have their employer invest an amount in retirement annuities. No employer contributions are made to the plan. The program is in addition to the New Mexico Educational Retirement Account, the New Mexico Alternative Retirement Program and 457 contributions. Employees may choose from a list of approved companies that offer Tax Sheltered Annuity programs for the university. Employees may also choose within the approved company which accounts they would like their contributions to be distributed to. Employees may elect participation in the tax sheltered annuity plans at any time during the year. Contributions end when an employee terminates employment, retires, completes a Salary Reduction Agreement canceling contributions or when contributions have exceeded annual maximums established by the Internal Revenue Service.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 8 | HR-Benefits

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 06/15/2017

## Related

**Cross-Reference:**
**Revision History:**

[Re-numbered in the June 2017 ARP Recompilation (formerly Rule 7.34)] [Amendment recommended by the Administrative Council 07.27.11; approved by the Board of Regents 08.22.11, Amendment recommended by the Administrative Council 06.11.13; approved by the Board of Regents 06.20.13]

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 8.17 – United States Savings Bonds

arp.nmsu.edu/8-17

A regular employee may participate in the savings bond payroll deduction program. Enrollment is optional and forms must be completed and returned to the Office of Human Resource Services. (*See* the Office of Human Resource Services for more information.)

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 8 | HR-Benefits

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 06/15/2017

## Related

**Cross-Reference:**
**Revision History:**

[Re-numbered in the June 2017 ARP Recompilation (formerly Rule 7.42)]

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 8.21 – Group Medical Insurance

arp.nmsu.edu/8-21

## A. Eligibility

The university offers group medical insurance for all eligible employees.

1. Effective July 1, 2016, eligible employees are defined as those employees working at least .75 FTE in a regular, nine-month, or term appointment position.
2. Optional dependent coverage is also available to eligible employees.
3. Nine -month regular employees will receive full benefits, except for unemployment compensation, during the off employment period provided they return to employment the following academic year.
4. Eligible employees also include any employee continuously enrolled in this benefit from June 30, 2016.
5. Employees working in a position less than a .75 FTE; temporary employees; graduate assistants; other student employees; and Cooperative Extension Service employees with federal appointments are not eligible to participate in the group policy.

## B. Effective Date of Coverage

Coverage is optional and is available from the date of eligible employment. Coverage is effective the first pay period after 30 days of employment. Coverage may begin on the first or sixteenth day of the month. Employees must complete and return an enrollment form to the Office of Human Resource Services department within 31 calendar days of their regular date of employment to receive this benefit.

## C. Enrollment Procedures

Coverage is not automatic. Within the first 31 calendar days of employment, each eligible employee must either enroll in or waive coverage under the policy by completing an enrollment form. Details of coverage and provisions of the medical plan are available in the plan Benefit Summary.

## D. Premium Payments

Premium payments are made by payroll deduction. The university pays a percentage of the premium for the employee and, if the employee's dependents are enrolled in the plan, a percentage of their dependent premium also. Premium payments begin the pay period in which coverage begins. Note: A full fiscal year of premiums (July-June) will be deducted over 18 paychecks (August – May) for 9 month faculty/staff.

## E. Coverage Changes

An employee is responsible for requesting changes to insurance coverage by completing and submitting appropriate forms in order to adjust premiums. When an employee experiences a change in status, the employee has 31 calendar days from the date of the status change to contact the Office of Human Resource Services to make coverage changes.

1. A change in status includes, but is not limited to:
    a. Marriage
    b. Divorce
    c. Childbirth or adoption
    d. Loss of prior coverage or gain of new coverage
    e. Dependent no longer meeting insurance eligibility rules due to age
2. All status changes which result in an insurance coverage and/or premium change will be effective the day following the date of the change in status, except in the following cases:
    a. For a newborn or placement of child(ren) through adoption – the coverage becomes effective the date of birth or date of placement.
    b. For divorce or legal separation – the change is effective the day the legal documents are filed with the appropriate court.
    c. For dependent children who lose eligibility due to age – the change is effective at the end of the month in which the dependent reaches 26 years of age.
3. All changes that affect premiums will result in a full premium being deducted for the pay period in which the change takes place.

## F. Coverage during Disability

If any employee is terminated because of total disability, coverage may be continued in certain circumstances. Refer to the COBRA section of the medical plan Benefit Booklet for details.

## G. Coverage after Retirement

1. Employees hired on or after July 1, 2016 are not eligible for the retiree health insurance benefit.
2. An employee who was hired before July 1, 2016 and who officially retires from the university and receives a monthly benefit from the Educational Retirement Board immediately upon termination of employment (those eligible under the Alternative Retirement Plan must meet eligibility rules and immediately begin receiving a benefit) may elect to continue medical insurance after retirement, providing the employee had been covered under the plan for the prior 10 consecutive years and worked in a regular employment status.
3. Time while enrolled as an employee or as a spouse of an active employee will be counted toward the 10 years, provided there is no gap in coverage during the 10 year period.
4. Coverage as the spouse of a retiree will not be credited toward the 10 years.
5. The university continues to pay a percentage of the premium. When a retiree or dependent becomes age 65 and/or eligible for Medicare, all medical coverage will be moved to the Medicare Carve-Out Plan, which includes a Medicare Part D prescription plan. If the retiree or dependent enrolls in a Medicare Part D prescription plan outside the university retiree plan, they will no longer be eligible to access prescription or medical coverage through the retiree medical plan.
6. The university reserves the right to unilaterally increase, decrease or discontinue coverages, plan provisions, and premiums.
7. Details regarding coverage, eligibility and restrictions are available through the Office of Human Resources.

## H. Dependent Coverage after Retirement

1. Dependents of employees hired on or after July 1, 2016 are not eligible for the retiree health plan.
2. The following rules shall apply with respect to dependents of retirees who are eligible for the retiree health insurance benefit described above:
    a. Spouses and dependent children of eligible retirees covered at the time of retirement may continue coverage after retirement.

b. New spouses of retirees acquired after retirement may be added to the plan under certain circumstances. In order to add a new spouse, an enrollment form must be completed. The new spouse may not be added until 1 year after the date of marriage; the retiree must still be living and have medical insurance coverage at the end of the 1 year waiting period and must enroll the new spouse within 31 days of the 1 year marriage anniversary. New spouse coverage begins the first day of the month following the 1 year waiting period, provided the appropriate forms have been completed and received by Benefit Services. There will be no university contributions to the new premium, and the retiree will be responsible for paying 100 percent of the premium for the new spouse's coverage. The new spouse will be eligible for surviving spouse benefits.
c. New dependent children acquired after retirement may not be added to the plan, unless he child is a newborn or a newly adopted child.
d. A retiree who rescinds retirement, returns to full-time employment, and later retires, may only continue coverage for dependent children who have been covered as a dependent for at least 10 years. Time covered under the retiree as an active employee will count toward the 10 years.
e. If coverage is discontinued by the retiree for self or any covered dependent (including spouse), retiree and/or dependent may never re-enroll.
f. Surviving spouse of a deceased retiree may continue coverage until re-marriage if he/she pays 100 percent of the premium.
g. Surviving dependent children of a deceased retiree may continue coverage until they no longer meet the rule of a dependent child under the medical plan by paying 100 percent of the premium. If coverage is terminated or dependents are removed from the plan for any reason, enrollment in the plan at a later date is prohibited.

## I. Coverage during Leave without Pay (LWOP)

During periods of leave without pay, medical insurance may be continued at the option of the employee.

1. Continued coverage will not exceed the length of time agreed upon with the individual vendor agreements.
2. Arrangements for timely payment of premiums must be made with the Office of Human Resource Services and the Office of University Accounts Receivable. If the employee is on LWOP for a full pay period the employee is responsible for both the university's and employee's portions of premium (except FMLA LWOP, Professional LWOP and Educational LWOP).

3. Failure to make full payment of premiums may result in cancellation of coverage. If coverage is not continued or is cancelled during any leave without pay period, the employee will be required to re-apply for coverage through the open enrollment process or with a qualifying event. This does not apply if the employee was approved for FMLA, in which case, the employee may be reinstated immediately upon return to work, provided the employee requests coverage from the Office of Human Resource Services within 31 days from the date of return.

## J. Coverage after Termination (12-Month Faculty and Staff)

Coverage ceases at midnight on the 15th day of the month if employment terminates between the 1st and 15th day of the month, provided the applicable premium for the pay period has been paid. If an employee terminates employment between the 16th and last day of the month, coverage ceases at midnight on the last day of the month, provided the applicable premium for the pay period has been paid. The policy contains continuance in compliance with state and federal law. Complete information on these procedures is available in the Office of Human Resource Services.

## K. Coverage after Termination (9-Month Faculty and Staff)

When employees or faculty members do not return the next academic year, only dental and medical coverage will remain in effect until June 30th. All other insurances stop at the end of the pay period in which their regular employment ends. *See* the health insurance carrier's Benefit Booklet for details.

## L. Medical Plan Provisions

Details on the medical plan provisions are contained in the medical insurance carrier's Benefit Booklet.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 8 | HR-Benefits

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 06/15/2017

## Related

**Cross-Reference:**
**Revision History:**

[Re-numbered in the June 2017 ARP Recompilation (formerly Rule 7.15.05)] [06.14.16 University Administrative Council recommended; 06.21.16 Chancellor approved; 06.27.16 BOR approved change in Benefits. 10.21.15: BOR approved Policy 7.15.05 as initial Rule 7.15.05. Prior Revision History as Policy 7.15.05: 06.11.13 amendment recommended by Administrative Council; 06.20.13 approved by Board of Regents.]

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 8.22 – Group Dental Plan

arp.nmsu.edu/8-22

## A. Eligibility

The university offers group dental insurance for all eligible employees. Effective July 1, 2016, eligible employees are defined as those employees working at least .75 FTE in a regular, nine-month, or term appointment position. Optional dependent coverage is also available to eligible employees. Nine -month regular employees will receive full benefits, except for unemployment compensation, during the off employment period provided they return to employment the following academic year. Eligible employees also include any employee continuously enrolled in this benefit from June 30, 2016.

Employees working in a position less than a .75 FTE; temporary employees; graduate assistants; other student employees; and Cooperative Extension Service employees with federal appointments are not eligible to participate in the group policy.

## B. Effective Date of Coverage

Coverage is optional and is available from the date of eligible employment. Coverage is effective the first pay period after 30 days of employment. Coverage may begin on the first or sixteenth day of the month. The employee must complete and return an enrollment form to the Office of Human Resource Services department within 31 calendar days of their regular date of employment to receive this benefit.

## C. Enrollment Procedures

Coverage is not automatic. Within the first 31 calendar days of employment, each eligible employee must either enroll in or waive coverage under the policy by completing an enrollment form. Details of coverage and provisions of the dental plan are available in the plan Benefit Summary.

## D. Premium Payments

Premium payments are made by payroll deduction. The university pays a percentage of the premium for the employee and, if the employee's dependents are enrolled in the plan, a percentage of the dependent premium also. Premium payments begin the pay period in which coverage begins. **Note**: A full fiscal year of premiums (July-June) will be deducted over 18 paychecks (August – May) for 9 month faculty/staff.

## E. Coverage Changes

An employee is responsible for requesting changes to insurance coverages by completing and submitting appropriate forms in order to adjust premiums. When an employee experiences a change in status the employee has 31 calendar days from the date of the status change to contact the Office of Human Resource Services to make coverage changes.

1. A change in status includes, but is not limited to:
    a. Marriage
    b. Divorce
    c. Childbirth or adoption
    d. Loss of prior coverage or gain of new coverage
    e. Dependent no longer meeting insurance eligibility rules due to age
2. All status changes which result in an insurance coverage and/or premium change will be effective the day following the date of the change in status, except in the following cases:
    a. For a newborn or placement of child(ren) through adoption – the coverage becomes effective the date of birth or date of placement
    b. For divorce or legal separation – the change is effective the day the legal documents are filed with the appropriate court
    c. For dependent children who lose eligibility due to age – the change is effective the end of the month in which the dependent reaches 26 years of age.
3. All changes that affect premiums will result in a full premium being deducted for the pay period in which the change takes place.

## F. Coverage after Retirement or Termination (12-Month Faculty and Staff)

Coverage ceases at midnight on the 15th day of the month if employment terminates between the 1st and 15th day of the month, provided the applicable premium for the pay period has been paid. If an employee terminates employment between the 16th and last day of the month, coverage ceases at midnight on the last day of the month, provided the applicable premium for the pay period has been paid. The policy contains continuance provisions. Complete information on these procedures is available in the Office of Human Resource Services.

## G. Coverage After Retirement or Termination (9-Month Faculty and Staff)

When an employee or faculty member does not return the next academic year, only dental and medical coverage will remain in effect until June 30th (all other insurances stop at the end of the pay period in which their employment ends). The policy contains continuance in compliance with state and federal law.

## H. Coverage during Leave Without Pay (LWOP)

During periods of LWOP, dental insurance may be continued at the option of the employee. Continued coverage will not exceed the length of time agreed upon by the individual vendor agreements. Arrangements for payment of premiums will be made with the Office of Human Resource Services and the Office of University Accounts Receivable. If the employee is on LWOP for a full pay period, the employee is responsible for both the university's and employee's portions of premium (except FMLA LWOP, Professional LWOP and Educational LWOP). Failure to make full payment of premiums may result in cancellation of coverage. If the coverage is not continued or cancelled during the leave without pay period, the employee may re-enroll during the next scheduled open enrollment period.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 8 | HR-Benefits

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 06/15/2017

## Related

**Cross-Reference:**
**Revision History:**

[Re-numbered in the June 2017 ARP Recompilation (formerly Rule 7.15.10)] [06.14.16 University Administrative Council recommended; 06.21.16 Chancellor approved; 06.27.16 BOR approved change in Benefits. 10.21.15: BOR approved Policy 7.15.05 as initial Rule 7.15.05. Prior Revision History as Policy 7.15.10: 06.11.13 amendment recommended by Administrative Council; 06.20.13 approved by Board of Regents.]

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 8.23 – Group Term Life Insurance

arp.nmsu.edu/8-23

## A. Eligibility

The university offers group life insurance for all eligible employees. Effective July 1, 2016, eligible employees are defined as those employees working at least .75 FTE in a regular, nine-month, or term appointment position. Nine -month regular employees will receive full benefits, except for unemployment compensation, during the off employment period provided they return to employment the following academic year. Eligible employees also include any employee continuously enrolled in this benefit from June 30, 2016.

Employees working in a position less than a .75 FTE; temporary employees; graduate assistants; other student employees; and Cooperative Extension Service employees with federal appointments are not eligible to participate in the group policy.

## B. Enrollment Procedures

At the time of employment, each new eligible employee must either enroll in or waive coverage under the policy by completing an enrollment form. Employees must enroll in or waive coverage within the first 31 calendar days of employment. If an employee does not complete an enrollment or waiver form within 31 calendar days of eligible employment, the employee will automatically waive their right to life insurance and will be subject to approval by the life insurance carrier for coverage to begin.

## C. Effective Date of Coverage

Coverage is optional and is available from the date of eligible employment. Coverage is effective the first pay period after 30 days of employment. Coverage may begin on the first or sixteenth day of the month. Employees must complete and return an enrollment form to the Office of Human Resource Services within 31 calendar days of their regular date of employment to receive this benefit without late enrollment provisions.

## D. Premium Payments

Premium payments are made by payroll deduction, and the university pays a percentage of the premium. Premium payments begin the pay period in which coverage begins. Note: A full fiscal year of premiums (June-July) will be deducted over 18 paychecks (August-May) for 9 month faculty/staff.

## E. Change of Beneficiary

Employees are asked to keep the Office of Human Resource Services notified of any name change or beneficiary change.

## F. Coverage During Disability

If an employee is totally disabled, the employee may request a waiver of premium from the insurance company. If granted, the insurance will remain in force without payment of premium for the length of the disability or until age 70, whichever comes first.

## G. Coverage After Retirement

When an employee officially retires from the university with at least 10 years of consecutive regular service the employee may elect to continue and pay for coverage under this policy up to a scheduled maximum; however, double indemnity provisions for accidental death and dismemberment are canceled for all insurance carried into retirement. If coverage is terminated for any reason, enrollment at a later date is prohibited.

## H. Coverage During Leave Without Pay (LWOP)

During periods of LWOP, life insurance may be continued at the option of the employee. Continued coverage will not exceed the length of time agreed upon by the individual vendor agreements. Arrangements for payment of the premiums will be made with the Office of Human Resource Services and the Office of University Accounts Receivable. If premiums are not paid coverage will end as of the last date premiums were paid. If coverage is not continued or is canceled during leave without pay, the employee will be required to re-apply for coverage as a late enrollee upon return to work. Reinstatement of coverage is not

automatic and is subject to approval from the carrier. If the employee is on LWOP for a full pay period the employee is responsible for both the university's and employee's portion of premiums (except FMLA, Professional LWOP and Educational LWOP).

## I. Coverage After Termination

There is a conversion privilege which allows a terminated employee to convert the group policy to an individual policy without medical examination. Application must be made to the insurance carrier within the 31 calendar days following termination of employment. Retired employees may also exercise the conversion privilege on the remaining portion of the coverage not carried into retirement. Forms are available in the Office of Human Resource Services. Coverage ceases at midnight on the 15th day of the month if employment terminates between the 1st and 15th day of the month, provided the applicable premium for the pay period has been paid. If an employee terminates employment between the 16th and last day of the month, coverage ceases at midnight on the last day of the month, provided the applicable premium for the pay period has been paid.

## J. Death Claims

When an employee dies, the Office of Human Resource Services will be available to meet with the beneficiary to explain the policy and process claim requests.

## K. Discontinuing Coverage

An employee who discontinues coverage and then wishes to re-enroll in the future will be required to submit evidence of insurability (a medical examination at the employee's expense may also be requested). Reinstatement of coverage is not automatic it is subject to approval or disapproval by the university's insurance carrier.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 8 | HR-Benefits

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 06/15/2017

## Related

**Cross-Reference:**

**Revision History:**

[Re-numbered in the June 2017 ARP Recompilation (formerly Rule 7.15.20)] [06.14.16 University Administrative Council recommended; 06.21.16 Chancellor approved; 06.27.16 BOR approved change in Benefits. 10.21.15: BOR approved Policy 7.15.05 as initial Rule 7.15.05. Prior Revision History as Policy 7.15.20: 06.11.13 Amendment recommended by Administrative Council; 06.20.13 approved by Board of Regents.]

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 8.24 – Group Long-Term Disability Insurance

arp.nmsu.edu/8-24

## A. Eligibility

The university offers group long-term disability insurance for all eligible employees. Effective July 1, 2016, eligible employees are defined as those employees working at least .75 FTE in a regular, nine-month, or term appointment position. Nine -month regular employees will receive full benefits, except for unemployment compensation, during the off employment period provided they return to employment the following academic year. Eligible employees also include any employee continuously enrolled in this benefit from June 30, 2016.

Employees working in a position less than a .75 FTE; temporary employees; graduate assistants; other student employees; and Cooperative Extension Service employees with federal appointments are not eligible to participate in the group policy.

## B. Effective Date of Coverage

Coverage is optional and is available from the date of eligible employment. Coverage is effective the first pay period after 30 days of employment. Coverage may begin on the first or sixteenth day of the month. Employees must complete and return an enrollment form to the Office of Human Resource Services department within 31 calendar days of their regular date of employment to receive this benefit without late enrollment provisions.

## C. Enrollment Procedures

At the time of eligible employment new employees will be required to complete an enrollment form to either enroll in or waive coverage within the first 31 days of employment. If an employee does not complete an enrollment or waiver form within 31 days of eligible employment, then the employee will automatically waive his/her right to long-term disability coverage and will be subject to approval by the long-term disability carrier for coverage to begin.

## D. Premium Payments

Premium payments are made by payroll deduction, and the university pays a percent of the premium. Premium payments begin the pay period in which coverage begins. Note: A full fiscal year of premiums (July-June) will be deducted over 18 paychecks (August-May) for 9 month faculty/staff.

## E. Application for Benefits

When an employee is disabled, it is the employee's responsibility to notify the Office of Human Resource Services. The Application for Disability and a Physician's Statement of Disability must be completed and returned directly to the insurance carrier for processing to request benefits to be paid under this program, along with the Employer Statement. The Employer Statement can be requested from the Office of Human Resource Services. The long term disability carrier will not process incomplete applications.

## F. Pending Approval for Claims

The employee can request to be placed on paid leave if sick leave or annual leave are available or request to be placed on leave without pay while the carrier processes the application. If the application is denied, then employment may be terminated if the employee is unable to return to work.

## G. Employees on Long-term Disability

Employees who qualify and receive a long-term disability benefits will:

1. Use all remaining sick and annual leave to offset long-term disability benefits. Total compensation, to include annual/sick leave and long-term disability benefits, may not exceed the employee's regular rate of pay unless a minimum disability benefit is being paid by the carrier.
2. If still employed at the time of approval for disability payments, be placed on extended leave without pay for up to one year from the date the disability benefits are effective. If the employee is able to return to work within one year from the date disability benefits are effective, when possible, the university will assist the employee in finding an appropriate position for which they are qualified during the first 90 days after

becoming eligible for employment. If an appropriate position is not available or the employee refuses the offered position, the employee may be terminated.

3. Be required to submit a copy of their certificate of continued disability to the insurance company as required by the policy.
4. Retire or terminate at the end of one year, and in order to retain other applicable insurance benefits during that year, the employee must pay premiums like any other employee on LWOP.
5. If the employee qualifies and decides to retire, the employee may continue medical insurance the same as any other retiree, provided the medical benefits remained in effect during the leave of absence.

## H. Coverage After Retirement or Termination

Coverage is not available after retirement or termination. Coverage ceases at midnight on the 15th day of the month if employment terminates between the 1st and 15th day of the month, provided the applicable premium for the pay period has been paid. If an employee terminates employment between the 16th and last day of the month, coverage ceases at midnight on the last day of the month, provided the applicable premium for the pay period has been paid.

## I. Coverage During Leave Without Pay

During periods of leave without pay employees have limited access to continue long term disability coverage and should consult with the Office of Human Resources for details.

## J. Discontinuing Coverage

An employee who discontinues coverage and then wishes to re-enroll in the future will be required to submit evidence of insurability as specified by the carrier and may include a medical examination at the employee's expense. Reinstatement of coverage is not automatic and is subject to approval or disapproval by the university's insurance carrier.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 8 | HR-Benefits

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 06/15/2017

## Related

**Cross-Reference:**
**Revision History:**

[Re-numbered in the June 2017 ARP Recompilation (formerly Rule 7.15.25)] [06.14.16 University Administrative Council recommended; 06.21.16 Chancellor approved; 06.27.16 BOR approved change in Benefits. 10.21.15: BOR approved Policy 7.15.05 as initial Rule 7.15.05. Prior Revision History as Policy 7.15.25: 06.11.13 amendment recommended by Administrative Council; 06.20.13 approved by Board of Regents.]

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 8.25 – Supplemental Life Insurance/Voluntary Life Insurance

arp.nmsu.edu/8-25

## A. Eligibility

The university offers supplemental voluntary life insurance for all eligible employees. Effective July 1, 2016, eligible employees are defined as those employees working at least .75 FTE in a regular, nine-month, or term appointment position. Optional dependent coverage is also available to eligible employees. Nine -month regular employees will receive full benefits, except for unemployment compensation, during the off employment period provided they return to employment the following academic year. Eligible employees also include any employee continuously enrolled in this benefit from June 30, 2016.

Employees working in a position less than a .75 FTE; temporary employees; graduate assistants; other student employees; and Cooperative Extension Service employees with federal appointments are not eligible to participate in the group policy.

## B. Effective Date and Enrollment Procedures

Coverage is optional and is available from the date of eligible employment. Coverage is effective the first pay period after 30 days of employment. Coverage may begin on the first or sixteenth day of the month. Employees must complete and return an enrollment form to the Office of Human Resource Services department within 31 calendar days of their date of employment to receive this benefit without late enrollment provisions. Enrollment in the Voluntary Accidental Death and Dismemberment Insurance plan is required to participate in this benefit.

If enrollment is within the first 31 calendar days of eligible employment, employees may receive guaranteed issue for coverage up to established limits. For coverage amounts over the guaranteed issue or enrollment forms received after 31 calendar days of eligible employment; evidence of insurability is required. The insurance carrier will determine if the employee, spouse and/or dependent child(ren) are approved for amounts of coverage requested.

## C. Premium Payments

Premium payments are made by payroll deduction. Premium payments begin the pay period in which coverage begins. Note: A full fiscal year of premiums (July-June) will be deducted over 18 paychecks (August-May) for 9 month faculty/staff. The policy contains a waiver of premium provision which allows for waiver of premium payments during a period of disability without reduction of insurance coverage.

## D. Coverage After Retirement or Termination

There is a conversion privilege which allows a retired/terminated employee to convert the group policy to an individual policy without medical examination. Application must be made to the insurance carrier within 31 calendar days following the date of retirement or termination of employment. Coverage ceases at midnight on the 15th day of the month if employment terminates between the 1st and 15th day of the month, provided the applicable premium for the pay period has been paid. If an employee terminates employment between the 16th and last day of the month, coverage ceases at midnight on the last day of the month, provided the applicable premium for the pay period has been paid.

# Details

**Scope:** NMSU System
**Source:** ARP Chapter 8 | HR-Benefits

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 06/15/2017

# Related

**Cross-Reference:**
**Revision History:**

[Re-numbered in the June 2017 ARP Recompilation (formerly Rule 7.15.30)] [06.14.16 University Administrative Council recommended; 06.21.16 Chancellor approved; 06.27.16 BOR approved change in Benefits. 10.21.15: BOR approved Policy 7.15.05 as initial Rule 7.15.05. Prior History as Policy 7.15.30: 06.11.13 amendment recommended by Administrative Council; 06.20.13 approved by Board of Regents.]

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 8.26 – Voluntary Accidental Death and Dismemberment Insurance

arp.nmsu.edu/8-26

## A. Eligibility

The university offers voluntary accidental death and dismemberment insurance for all eligible employees. Effective July 1, 2016, eligible employees are defined as those employees working at least .75 FTE in a regular, nine-month, or term appointment position. Optional dependent coverage is also available to eligible employees. Nine -month regular employees will receive full benefits, except for unemployment compensation, during the off employment period provided they return to employment the following academic year. Eligible employees also include any employee continuously enrolled in this benefit from June 30, 2016.

Employees working in a position less than a .75 FTE; temporary employees; graduate assistants; other student employees; and Cooperative Extension Service employees with federal appointments are not eligible to participate in the group policy.

## B. Premium Payments

Premium payments are made by payroll deduction. Premium payments begin the pay period in which coverage begins. Note: A full fiscal year of premiums (July-June) will be deducted over 18 paychecks (August-May) for 9 month faculty/staff. The policy contains a waiver of premium provision which allows for waiver of premium payments during a period of disability.

## C. Effective Date and Enrollment Procedures

Eligible employees may enroll at any time as there is continuous enrollment under this plan; however, enrollment in the Voluntary Life Insurance is required to participate in this benefit. Coverage is effective the same date as the Voluntary Life Insurance plan.

## D. Cessation of Coverage

Coverage ceases at midnight on the 15th day of the month if employment terminates between the 1st and 15th day of the month, provided the applicable premium for the pay period has been paid. If an employee terminates employment between the 16th and last day of the month, coverage ceases at midnight on the last day of the month, provided the applicable premium for the pay period has been paid.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 8 | HR-Benefits

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 06/15/2017

## Related

**Cross-Reference:**
**Revision History:**

[Re-numbered in the June 2017 ARP Recompilation (formerly Rule 7.15.35)] [Amendment recommended by University Administrative Council 06.14.16; approved by the Chancellor 06.21.16; approved by the Board of Regents 06.27.16] [Amendment recommended by the Administrative Council 06.11.13; approved by the Board of Regents 06.20.13]

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 8.27 – Vision Insurance

arp.nmsu.edu/8-27

## A. Eligibility

The university offers vision insurance for all eligible employees. Effective July 1, 2016, eligible employees are defined as those employees working at least .75 FTE in a regular, nine-month, or term appointment position. Optional dependent coverage is also available to eligible employees. Nine -month regular employees will receive full benefits, except for unemployment compensation, during the off employment period provided they return to employment the following academic year. Eligible employees also include any employee continuously enrolled in this benefit from June 30, 2016.

Employees working in a position less than a .75 FTE; temporary employees; graduate assistants; other student employees; and Cooperative Extension Service employees with federal appointments are not eligible to participate in the group policy.

## B. Effective Date of Coverage and Enrollment Procedures

Coverage is optional and is available from the date of eligible employment. Coverage is effective the first of the month after 30 days of employment. Employees must complete and return an enrollment form to the Office of Human Resource Services within 31 calendar days of their date of employment to receive this benefit without late enrollment provisions.

## C. Premium Payments

Premium payments are made by payroll deduction, and the employee pays 100% of the premium. Premium payments begin the pay period in which coverage begins.

## D. Coverage Changes

An employee is responsible for requesting changes to vision coverage by completing and submitting appropriate forms in order to adjust premiums. When an employee experiences a change in status, the employee has 31 calendar days from the date of the status change to contact the Office of Human Resource Services to make coverage changes.

1. A change in status includes, but is not limited to:
    a. Marriage
    b. Divorce
    c. Childbirth or adoption
    d. Loss of prior coverage or gain of new coverage
    e. Dependent no longer meeting insurance eligibility rules due to age or marriage
2. All status changes which result in an insurance coverage and/or premium change will be effective the first day of the month following the date of the change in status.
3. All changes that affect premiums will result in a full premium being deducted for the pay period in which the change takes place.

## E. Coverage After Retirement or Termination

Coverage ceases at midnight on the 15th day of the month if employment terminates between the 1st and 15th day of the month, provided the applicable premium for the pay period has been paid. If an employee terminates employment between the 16th and last day of the month, coverage ceases at midnight on the last day of the month, provided the applicable premium for the pay period has been paid. The policy contains continuance in compliance with state and federal law.

## F. Coverage During Leave Without Pay

During periods of leave without pay vision may be continued at the option of the employee. Continued coverage cannot exceed the length of time agreed upon by the individual vendor agreements. Arrangement for payment of premiums will be made with the Office of Human Resource Services and the university Accounts Receivable Office. If premiums are not paid coverage will end as of the last date premiums were paid. If coverage is not continued or is canceled during leave without pay, the employee will be required to re-apply for coverage as a late enrollee upon return to work. Reinstatement of coverage is not automatic and is subject to approval from the carrier. If the employee is on LWOP for more a full pay period the employee is responsible for both the university's and employee's portion of premiums (except FMLA, Professional LWOP and Educational LWOP).

## G. Discontinuing Coverage

An employee who discontinues coverage and then wishes to re-enroll in the future will be required to follow late enrollment requirements.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 8 | HR-Benefits

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 06/15/2017

## Related

**Cross-Reference:**
**Revision History:**

[Re-numbered in the June 2017 ARP Recompilation (formerly Rule 7.15.40)] [06.14.16 University Administrative Council recommended; 06.21.16 Chancellor approved; 06.27.16 BOR approved change in Benefits. 10.21.15: BOR approved Policy 7.15.05 as initial Rule 7.15.05. Prior Revision History as Policy 7.15.40: 06.11.13 amendment recommended by Administrative Council; 06.20.13 approved by Board of Regents.]

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 8.28 – Sick Leave Bank

arp.nmsu.edu/8-28

**A.** This program establishes a Sick Leave Bank for eligible participating university employees affected by a personal medical emergency, and who have insufficient paid sick or annual leave to cover required work absences. Only university employees who are eligible to accrue sick and annual leave may elect to participate in the Sick Leave Bank benefit. A. This program establishes a Sick Leave Bank for eligible participating university employees affected by a personal medical emergency, and who have insufficient paid sick or annual leave to cover required work absences. Only university employees who are eligible to accrue sick and annual leave may elect to participate in the Sick Leave Bank benefit.

**B.** A personal medical emergency is defined as an unusual and catastrophic medical or immediate family medical emergency that is likely to require an employee's absence from duty for a prolonged period of time and to result in a substantial loss of income because of the unavailability of paid leave.

**C.** Only those items allowable under the university Sick Leave Rules are covered by the Sick Leave Bank.

**D.** The bank allows employees to share the risk of severe circumstances by donating to a common pool of leave.

**E.** Members of the pool are required to enroll in the long-term disability insurance program as a protection against income loss while recovering from a severe medical condition. The long-term disability policy covers total disability after a waiting period of 135 consecutive calendar days or 100 work days.

**F.** The maximum a recipient can receive from the Sick Leave Bank is 70 days per personal emergency with no more than one withdrawal from the bank per fiscal year or per personal emergency. No more than 70 days can be withdrawn for a particular medical condition.

**G.** Employees would be wise to maintain a balance of at least 30 days of combined sick and annual leave to cover them during the first 30 days of personal emergency or total disability. The Sick Leave Bank does not provide for the first 30 days of the personal emergency; these are the responsibility of the employee and are covered by the employee's sick and annual leave or leave without pay.

**H.** Program requirements and application procedures are maintained on the web pages for the Office of Human Resource Services.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 8 | HR-Benefits

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 06/15/2017

## Related

**Cross-Reference:**
**Revision History:**

[Re-numbered in the June 2017 ARP Recompilation (formerly Rule 7.20.80)] [Provisionally amended by the Chancellor 04.16.15; ratified by Board of Regents 07.21.15. Provisionally amended by the Chancellor 08.17.15; ratified by Board of Regents 10.21.15.]

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 8.31 – Duty to Request/Approve and Track Leave Usage

arp.nmsu.edu/8-31

Supervisors are responsible for tracking and approving annual leave, and sick leave usage for all persons reporting directly to them. The official leave tracking program of the university is Employee Self Service. The annual leave record will be forwarded with the Personnel Action Form when an employee terminates or is placed on leave without pay.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 8 | HR-Benefits

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 06/15/2017

## Related

**Cross-Reference:**
**Revision History:**

[Re-titled and re-numbered in the June 2017 Recompilation (formerly Rule 7.20.65, Leaves - Records)]

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 8.40 – Types of Authorized Leave of Absence (LOA)

arp.nmsu.edu/8-40

**A.** FMLA and Faculty Care Leave requests are administered by HRS-Benefits. Other requests for leave will be considered by a supervisor with primary consideration given to the requirements of the job. Requests should be made in writing in advance whenever possible.

Regular staff, regular 12 month faculty and non-regular employees in a term appointment are eligible to accrue leave. Part-time (less than .50 FTE) employees, temporary employees, graduate assistants, and other student employees are not eligible to accrue leave. Regular full and part time nine-month faculty accrue paid Faculty Care Leave.

**B.** All leave may only be used or paid in accordance with an employee's official FTE.

1. Exempt employees are required to submit approved leave taken to their supervisor each month via Employee Self Service.
2. Non-exempt employees are required to submit approved leave taken to their supervisors each pay period via Employee Self Service.
3. All exempt and non-exempt employees who earn leave may view their leave balances via Employee Self Service (the official leave tracking program of the university).
4. Exempt employees who ordinarily work more than 40 hours a week may be given flexibility in reporting leave of one-half day or less.
5. Faculty leaves normally do not exceed 1 year and, if exception is granted, are not normally extended beyond the second year.
6. Faculty periods of sabbatical, educational, and personal leave (with or without pay) normally do not count toward eligibility for tenure and/or promotion decisions. Professional and other types of leave periods may count toward such eligibility upon agreement among the faculty member, the department, and the administration.
7. Twelve-month faculty accrue and report annual and sick leave as usual while on sabbatical or educational leave. Any leave at less than half pay does not accrue leave.
8. Exempt employees may only accrue leave based upon their designated FTE regardless of the number of hours worked, and may not be placed on leave without pay for less than 8 hours in a work day (except when the Family Medical Leave Act applies).

9. Nonexempt employees will accrue leave on an hourly basis not to exceed the maximum accrual rate for their designated FTE regardless of the number of hours worked, and may be placed on leave without pay for less than 8 hours in a work day.

**C.** Employees will accrue leave while on annual, sick, jury duty or compassionate leave.

**D.** Supervisors are responsible for establishing and maintaining the appropriate leave records.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 8 | HR-Benefits

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 06/15/2017

## Related

**Cross-Reference:**
**Revision History:**

Amendment recommended by Administrative Council 06.11.13; approved by Board of Regents 06.20.13.

Amendment provisionally approved by Chancellor 08.17.15; ratified by Board of Regents 10.21.15.

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 8.41 – LOA – Annual

arp.nmsu.edu/8-41

A. Effective July 1, 2019, regular full-time 12-month employees and non-regular full-time term employees will accrue annual leave at the rate of 21 working days (168 hours) each year. Nine month faculty do not accrue annual leave.
B. Regular and term appointment employees who have a job FTE of less than 1.0 FTE and non-faculty employees who have a 9-month appointment shall accrue annual leave on a prorated basis.
C. Leave will be earned from the first day of employment and may be used as it is earned.
D. Hours worked over 40 hours per week do not accrue either annual or sick leave.
E. Up to 240 hours accumulated annual leave may be carried forward each July 1, and may be paid upon termination of employment for regular employees only. Effective June 30, 2017, leave accrued in excess of 240 hours at the close of business on June 30 of each year shall be forfeited. Non regular term appointment employees will forfeit all unused accrued leave on July 1, and upon termination of term appointment.
F. In the case of death, the maximum payment for unused leave shall be 400 work hours.
G. It is the responsibility of the employee/director/department head to ensure that the use of annual leave is programmed in advance and used so the employee will not lose any leave.
H. An employee's pay can be docked for a voluntary day off if they do not have a leave balance to cover (see ARP 7.01 Staff Compensation).
I. Annual leave for regular employees will be transferred with the employees from one department to another.
J. Regular staff employees who convert from regular to temporary status may be paid for unused annual leave as stated above.

K. Regular faculty employees who convert from 12-month status to academic 9-month status may be paid for unused annual leave not to exceed 240 hours, prorated for less than full-time FTE. L. Regular faculty employees who convert from 12-month status to academic 9-month status may be paid for unused annual leave not to exceed 240 hours, prorated for less than full-time FTE.
L. Regular employees who are terminating may request terminal leave (with administrative approval) in lieu of lump sum payment and will not accrue leave during terminal leave unless they return to permanent work status.
M. Employees who are retiring may accrue leave during terminal leave.

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 8 | HR-Benefits

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 10/09/2019

## Related

**Cross-Reference:**
**ARP 7.01 - Staff Compensation**

**ARP 8.55 – Leave Without Pay**

**Revision History:**
10/09/2019 Amendment approved by Chancellor
05/10/2019 Amendment Effective 07/01/19 approved by Board of Regents
2017 Recompilation, formerly Rule 7.20.25
06/27/2016 Change in Benefits approved by Board of Regents
06/21/2016 Change in Benefits approved by Chancellor
10/21/2015 Policy 7.15.05 approved as initial Rule 7.15.05 approved by Board of Regents
06/20/2013 Amendment to policy 7.15.25 approved by Board of Regents

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 8.42 – LOA – Faculty Care Leave

arp.nmsu.edu/8-42

## PART 1: PURPOSE

This Rule authorizes university administration to establish a paid leave benefit for regular nine-month faculty to be used for absence from work caused by an FMLA qualifying event.

## PART 2: DEFINITIONS

A. **Eligible Faculty** are regular full time and part time nine-month faculty who do not otherwise accrue annual leave or sick leave.
B. **FMLA:** The federal Family Medical Leave Act, 29 U.S.C. 2601 et seq
C. **FMLA qualifying events** are as defined in the Family Medical Leave Act, which is posted on the Human Resource Services' website at http://benefits.nmsu.edu.

## PART 3: AUTHORIZATION OF FACULTY CARE LEAVE PROGRAM

The university will offer a paid leave benefit entitled "Faculty Care Leave", subject to the following rules:

A. Eligible faculty working full time (1.0 FTE) will accrue four hours of paid Faculty Care Leave per pay period (equating to nine days per full academic year). Eligible faculty working less than full time will accrue Faculty Care Leave on a pro rata basis commensurate with their job FTE.
B. Eligible faculty may accrue up to a maximum of eight hundred hours (100 days) of Faculty Care Leave.
C. Eligible faculty employed prior to effective date of this Rule will receive Faculty Care Leave accrual credit commensurate to their length of service with NMSU, up to ten years of service.

D. Faculty Care Leave may only be used during the faculty member's nine month academic employment period, when absence from work is due to a FMLA qualifying event.
E. No payment will be provided for accrued Faculty Care Leave balances upon separation from NMSU service nor upon death.
F. Nine-month faculty will not be eligible to participate in the Sick Leave Bank.
G. Faculty in 12-month positions who transfer into nine-month faculty positions will have accrued sick leave, up to 800 hours, converted to a Faculty Care Leave balance.
H. Faculty in nine-month positions who transfer into a 12-month leave eligible position will be allowed to maintain their Faculty Care Leave accrued balance for use in their new position.

## PART 4: PROCEDURES FOR IMPLEMENTATION AND OTHER GUIDANCE

A. Regardless of the availability of accrued Faculty Care Leave, faculty members may be eligible for FMLA leave, as provided by law. (See **ARP 8.45 – LOA – Family and Medical**). FMLA leave will be unpaid, to the extent that the amount of leave taken exceeds the available Faculty Care Leave balance.
B. A faculty member who is unable to work due to their own medical condition will be allowed to use accrued Faculty Care Leave beyond the 12 work weeks allowed under FMLA. Medical documentation will be required in such cases.
C. Faculty with health conditions that fall within the definition of "disability" under the Americans with Disabilities Act should consult with the ADA Coordinator within the Office of Institutional Equity to determine whether they may be eligible for additional leave as a reasonable accommodation of that disability.
D. Faculty members are required to notify their department head on every occasion during the nine-month academic employment period when they are unavailable to work.
E. Department heads/supervisors must notify fmla@nmsu.edu when a faculty member is unavailable to work for more than 3 consecutive working days or when the supervisor has knowledge a faculty member may have a need for Family Medical Leave.
F. FMLA will be designated and Faculty Care Leave will be used for qualifying events as of the 6th work day that the faculty member is unavailable to work. (Time off of less than 6 work days will be paid as regular work time.)
G. Human Resource Services – Benefits Services must review and approve all leave taken for qualifying events under the federal Family and Medical Leave Act and will communicate with the faculty member's department head regarding approval and usage details.

H. Leave without Pay (LWOP) is available for faculty members whose Faculty Care Leave is exhausted to cover the duration of their FMLA leave.
I. University administrators shall not discourage faculty from taking advantage of their FMLA rights or the Faculty Care Leave benefit. Faculty members who wish to consider alternative work schedules or alternative work locations, in lieu of taking all or part of the legally protected FMLA leave, may initiate discussion of such options with their department heads. If an agreed upon proposal for such alternative arrangements is approved by the college dean, then upon documentation of the faculty member's voluntary consent to the alternative arrangements, and final approval by the Provost, the alternative arrangements may be implemented.
J. Academic departments will be responsible for making arrangements to cover the workload of any faculty member on FMLA or Faculty Care Leave. Faculty members on FMLA or Faculty Care Leave cannot be asked to perform any work while on leave.
K. All paid time off for Faculty Care Leave will be paid from departmental salary budgets (and will not result in salary savings).

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 8 | HR-Benefits

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 06/15/2017

## Related

**Cross-Reference:**
**Revision History:**

[Re-titled and re-numbered in the June 2017 Recompilation (formerly Rule 7.20.42, LOA - Faculty Care Leave)] [11.08.16: Amendment recommended by University Administrative Council and approved by Chancellor. 10.21.15: BOR approved Policy 7.20.42 as initial Rule 7.20.42. Prior Revision History as Policy 7.20.42: 10.21.15 Policy ratified by Board of Regents. 08.17.15 Policy adopted provisionally by Chancellor.]

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 8.43 – LOA – Sick

arp.nmsu.edu/8-43

## A. Twelve-Month Exempt and Nonexempt Employees

1. Regular full-time employees shall be granted 12 working days of sick leave a year. This is prorated for half time or more employees.
2. Non-regular employees are not eligible for sick leave.
3. Leave will be earned from the first day of employment and may be used as it is earned.
4. Hours worked over 40 hours per week do not accrue either annual or sick leave.
5. Employees may accrue and bank 100 working days (800 hours) of accumulated sick leave (prorated for less than full-time employees and for any partial months by annual 9-month employees). On July 1 every year, any employee who has accumulated more than 100 working days of sick leave will have the sick leave balance reduced to 100 days.
6. A department may require supporting documentation for any usage of sick leave any time abuse of sick leave is suspected. Any grant of sick leave in excess of 3 consecutive working days should be supported by a medical certificate or other evidence administratively acceptable. Abuse of sick leave may be grounds for immediate dismissal.
7. Annual leave will be applied (if available) against sick leave in excess of the allotted sick leave days, but sick leave will not be applied against annual leave in any case.
8. Sick leave accrued after July 1, 2016, will have no cash value and will not result in a payout benefit.
9. Those employees who accrued more than 600 hours of sick leave prior to July 1, 2016 will retain the sick leave payout benefit that was in place on June 30, 2016, but only with respect to those hours accrued prior to July 1, 2016. This sick leave payout benefit shall be referred to as a "grandfathered" benefit. Any employee with a grandfathered sick leave payout benefit who terminates, retires or converts from a 12-month pay base to an academic faculty pay base will be paid, in accordance with the formula in effect on June 30, 2016, for any then remaining grandfathered sick leave benefit (calculation based on the lesser of the leave balance on July 1, 2016 or the leave balance on the date of separation). The formula in effect on June 30, 2016 stated: payment will be made at a rate of 50 percent of the employee's straight-time

hourly salary, multiplied by the number of sick leave hours accrued over 600, to a maximum of 200. The payment may not exceed 50 percent x hourly rate x 200. (According to Educational Retirement Board rules, this payment will not be included in the 5-year average salary used for the retirement benefits calculation.)

10. Sick leave will be transferred from one department to another with the employee.
11. Sick leave may be used when the employee's absence is reasonably required for the treatment of or recovery from illness or injury. Sick leave may also be used when the employee's absence is reasonably required as the result of pregnancy, childbirth, or a medical condition related to pregnancy or childbirth. Sick leave may be used when the employee's presence is reasonably required for the care of dependents during illness or recovery from injury. For this purpose, dependents are defined as spouse, children, or immediate family members any of whom normally reside in an employee's household and who are dependent upon the employee for support and maintenance. A physician's statement may be required to support the usage of sick leave for the employee or dependents. Employees on Family and Medical leave must use any available sick leave concurrently with Family and Medical leave, pursuant to **ARP 8.45**. An employee will not be compensated for a missed day from work if the employee does not have accrued paid leave available.

## B. Nine-Month Staff Employees

Regular nine-month staff employees may earn 9 days of sick leave a year (8.00 hours per month worked, prorated based on job FTE). Annual leave or sick leave for regular nine-month staff employees may be used only during the regular employment period they are scheduled to work each fiscal year. Leave is prorated for less than full-time eligible employees.

## C. Nine-Month Faculty Employees

Superseded by **ARP 8.42 – LOA – Faculty Care Leave**.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 8 | HR-Benefits

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 06/27/2016

## Related

**Cross-Reference:**
Rule 8.42 - Faculty Care Leave

**Revision History:**

2017 Recompilation, formerly Rule 7.20.75

06/27/2016 Amendment to Benefits approved by Board of Regents; 06/21/2016 Amendment to Rule 7.20.75 approved by Chancellor

10/21/2015 Board of Regents approved replication of Policy 7.20.75 as initial Rule 7.20.75

10/21/2015 Provisional Amendment ratified by Board of Regents; 08/17/2015 Provisional Amendment approved by Chancellor

07/21/2015 Provisional Amendments ratified by Board of Regents; 04/16/2015 and 06/24/2015 Provisional Amendments approved by Chancellor

06/20/2013 Amendment approved by Board of Regents

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 8.44 – LOA – Domestic Abuse

arp.nmsu.edu/8-44

In compliance with NMSA 1978, §§ 50-4A-1 *et seq*, the New Mexico Promoting Financial Independence for Victims of Domestic Abuse Act ("NMPFIVDAA"), the university offers domestic abuse leave for up to fourteen (14) days per calendar year.

## A. Definitions

The definitions provided or cross referenced within the NMPFIVDAA shall apply, including but not limited to:

1. "**Domestic Abuse**" is defined by state law, and means:
    a. an incident of stalking or sexual assault whether committed by a household member or not;
    b. any incident by a household member against another household member consisting of or resulting in physical harm, severe emotional distress, bodily injury or assault, a threat causing imminent fear of bodily injury by any household member, criminal trespass, criminal damage to property, repeatedly driving by a residence or work place, telephone harassment, harassment, harm or threatened harm to children as set forth above; and
    c. Domestic abuse does not mean the use of force in self-defense or the defense of another.
2. "**Employee**" means any person employed by NMSU.
3. "**Family member**" means a minor child of the employee or a person for whom the employee is a legal guardian.
4. "**Order of Protection**" means a court order granted pursuant to the Family Violence Protection Act.
5. "**Retaliation**" means adverse action against an employee, including threats, reprisals or discrimination for engaging in the protected activity of taking domestic abuse leave.

## B. Authorized Leave/Impact on Other Benefits

1. Domestic abuse leave for purposes of this Rule is leave taken due to the domestic abuse of an employee or an employee's family member, including but not limited to: obtaining or attempting to obtain an order of protection or other judicial relief from domestic abuse, meeting with law enforcement officials, consulting with attorneys or victim advocates, attending court or other administrative agency proceedings.
2. Unless the employee opts to use accrued sick or annual leave, compensatory time or other available paid time off, the domestic abuse leave shall be leave without pay.
3. The university shall not withhold pay, health insurance coverage or another benefit that has accrued to the employee when an employee takes domestic abuse leave.
4. Time taken for domestic abuse leave will not be included in calculating eligibility for benefits.

## C. Notice

When an employee must take domestic abuse leave under emergent circumstances, the employee or the employee's designee shall give notice to the supervisor or employer within 24 hours. Otherwise, employees shall provide as much notice as possible under the circumstances.

## D. Verification Documentation

Employees must provide the Office of Human Resource Services with verification of the leave in a timely fashion. The verification may be:

1. A copy of a police report indicating that the employee or family member was a victim of domestic abuse;
2. A copy of an order of protection or other court evidence produced in connection with an incident of domestic abuse; however, the provision of such documentation shall not constitute a waiver of confidentiality or privilege; or
3. A written statement signed by the employee's attorney, district attorney, district attorneys' victim advocate, or prosecuting attorney stating that the employee or employee's family member is scheduled to appear in court in connection with an incident of domestic abuse.

## E. Confidentiality and Limited Disclosure

1. The university shall not disclose verification documentation or information contained therein, and shall maintain confidentiality of the fact that an employee or employee's

family member was involved in a domestic abuse incident, that the employee requested or took domestic abuse leave, and that the employee made any written or oral statement about the need for domestic abuse leave.

2. The university may disclose such information only when the employee consents or when a court or administrative agency orders the disclosure, or when otherwise required by state or federal law.

## F. Retaliation Prohibited

The university shall not penalize or in any other way retaliate against an employee for requesting or taking domestic abuse leave.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 8 | HR-Benefits

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 06/16/2017

## Related

**Cross-Reference:**
**Revision History:**

[Re-numbered in the June 2017 ARP Recompilation (formerly Rule 7.20.32)] [Policy adoption recommended by the Administrative Council 08.24.10; policy adopted by the Board of Regents 09.17.10]

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 8.45 – LOA – Family and Medical

arp.nmsu.edu/8-45

## A. Purpose

To provide eligible employees with leave, in compliance with the Family and Medical Leave Act of 1993 (FMLA), as amended.

## B. Definitions

1. **Eligible Employee**: Any employee who has been employed by NMSU at least twelve (12) months (need not be consecutive), and who has worked at least 1,250 hours during the twelve month period immediately preceding the commencement of the leave.
2. **FMLA Leave**: job-protected leave from work allowed for certain qualifying events specified by the FMLA.

## C. Rule Statements

1. NMSU provides job-protected leave for the period of time allowed and under the conditions established by the FMLA. The Department of Labor provides guidance on FMLA qualifying events and conditions at http://www.dol.gov/whd/fmla/.
2. FMLA Leave is unpaid except when taken concurrently with accrued sick leave or accrued annual leave. Employees holding accrued sick leave must take sick leave concurrently with FMLA Leave until accrued sick leave is exhausted. Employees who do not have accrued sick leave may elect to take accrued annual leave concurrently with FMLA leave or may choose to be placed on leave without pay.
3. FMLA leave may be taken intermittently or on a reduced schedule when medically necessary, or as otherwise required by the FMLA. Intermittent leave to bond with a child after childbirth or adoption will be considered upon request and allowed except where such leave is unduly disruptive to the operations in the department where the employee works.

4. Employees should consult with NMSU's Human Resource Services Benefit Services for guidance on all FMLA matters, including benefit continuation options, and must contact Benefit Services as soon as the employee is aware of an event that may qualify the employee for FMLA leave.

## D. Procedural Guidelines and Cross References

Human Resource Services, Benefit Services, is authorized to issue procedural guidelines to facilitate the administration of this Rule, which shall either be published in this section or posted at http://benefits.nmsu.edu/leave-holidays/fmla/. See also: http://www.dol.gov/dol/topic/benefits-leave/fmla.htm and http://www.dol.gov/whd/regs/compliance/posters/fmlaen.pdf .

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 8 | HR-Benefits

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 07/21/2015

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 7.20.45

10/21/2015 Board of Regents approved replication of Policy 7.20.45 as initial Rule 7.20.45

07/21/2015 Provisional Amendment ratified by Board of Regents; 04/16/2015 Provisional Amendment approved by Chancellor

06/20/2013 Amendment approved by Board of Regents

11/10/2009 Amendment approved by Administrative Council; 07/20/2010 Amendment ratified by Board of Regents

06/10/2008 Amendment approved by Administrative Council; 07/15/2008 Amendment ratified by Board of Regents

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 8.46 – LOA – Military

arp.nmsu.edu/8-46

## A. Military Training Leave

In accordance with state law, NMSU provides paid training leave for its employees who are members of organized units of the Army or Air National Guard or Army, Air Force, Navy or Marine Reserves, in amount not to exceed 15 days annually when they are ordered to active duty training with such organized units. Such leave shall be in addition to other leave or vacation time with pay to which such employees are otherwise entitled. (*See* NMSA 1978, §20-4-7)

## B. Employment Status

Employees that are mobilized or volunteer for active duty status will be placed on leave without pay until the date of discharge or release from active duty status at which time the employee will return to regular employment.

## C. Military Leave of Absence

The following under the Uniformed Services Employment and Reemployment Rights Act (USERRA) conditions will apply:

1. The employee must hold a job other than temporary job. (The job need not be permanent.)
2. The employee must leave employment for the purpose of going on active duty.
3. The employee must not remain on active duty longer than 5 years, unless the period beyond 5 years is active duty during a war or declared national emergency or active duty in support of a critical mission. Service beyond 5 years required to complete initial period of obligation service from which a person by no fault of their own is unable to obtain release within the 5 year limit.
4. The employee must be discharged or released from active duty under honorable conditions.

5. **The employee must apply for re-employment as follows**:
    a. If the period of military service was less than 31 days, the service member must report to the university not later than the beginning of the first full regularly scheduled work period on the first full calendar day following completion of the period of service plus 8 hours, after a period allowing for safe transportation from place of service to residence.
    b. If the period of military service was more than 30 days but less than 181 days, the service-member must apply for re-employment *not later than 14 days after military service is completed*, or the next full calendar day when such application becomes possible. A copy of a DD214 must be submitted with the application for re-employment.
    c. If the period of military service was greater than 180 days, the service-member must apply for re-employment *not later than 90 days after service is completed*. A copy of a DD214 must be submitted with the application for re-employment.
    d. In all cases above, if the member through no fault of their own the employee cannot re-apply for employment within the time periods listed above, they must report back to work as soon as possible.
6. If a fitness for duty exam is required before a service member can return to work, regardless of the time the employee was on active duty, the service member must report to the university no later than first full regularly scheduled work period on the first full calendar day following completion of the period of service plus 8 hours, after a period allowing for safe transportation from of service to residence.
7. Discharge will not occur without cause for a period of time based on the period of military service: 6 months if the military service was 30-181 days; 1 year if the service was more than 180 days in length.
8. If a service member incurs or aggravates a disability while on active duty, the member has up to 2 years from the date the member is hospitalized or convalescing due to apply for re-employment. The time will be extended to accommodate a circumstance beyond the member's control that would make the reporting within the 2 year period impossible or unreasonable.

## D. Other Considerations Relating to Military Leave

1. Employees may, but are not required, to use annual leave during their active duty status.
2. Employees are not entitled to use military leave if they are mobilized or volunteer for active duty.
3. Military leave may only be used for training purposes.
4. Employees may continue insurances during the leave-without-pay period by paying 100 percent of the total premiums (both employee and employer shares). Any

employee called to active duty who discontinues insurance coverages during the leave-without-pay period may be placed immediately back on the plans upon return to employment without providing evidence of insurability.

5. Injuries/illnesses sustained during the active duty period will not be covered by the university health plan. These conditions would be covered by the Veterans Administration.
6. An attorney general's opinion, rendered after the passage of this law, points out that it does not pertain to temporary employees.
7. Dates for such leave must have prior administrative approval within the department and retained with internal leave records.
8. Annually is defined as federal fiscal year.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 8 | HR-Benefits

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 06/16/2017

## Related

**Cross-Reference:**
**Revision History:**

[Re-numbered in the June 2017 ARP Recompilation (formerly Rule 7.20.55)]

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 8.47 – LOA – Compassionate

arp.nmsu.edu/8-47

In the event of the death of a member of the immediate family, an employee is allowed a leave with pay, not to be charged against sick or annual leave, of up to 3 regular working days in order to attend the funeral or to handle affairs immediately associated with the death. For purposes of this Rule, "immediate family member" includes spouse, a domestic partner as defined in ARP 8.03 Domestic Partner Eligibility for Benefits, a child, parent or legal guardian, a sister or brother, a grandparent, or a grandchild. Such familial relationships created by law are also included (i.e. mother/father in law; half or step siblings).

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 8 | HR-Benefits

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 06/16/2017

## Related

**Cross-Reference:**
Rule 8.03 Domestic Partners

**Revision History:**

[Re-numbered in the June 2017 ARP Recompilation (formerly Rule 7.20.30)] [Amendment recommended by the Administrative Council 08.24.10; approved by the Board of Regents 09.17.10 Amendment recommended by the Administrative Council 06.11.13; approved by the Board of Regents 06.20.13]

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 8.48 – LOA – Course Registration

arp.nmsu.edu/8-48

Annual leave will not be charged against an employee who is registering for a tuition-free course as a part of the university's benefits program.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 8 | HR-Benefits

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 06/16/2017

## Related

**Cross-Reference:**
**Revision History:**

[Re-numbered in the June 2017 ARP Recompilation (formerly Rule 7.20.05)]

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 8.49 – LOA – Voting

arp.nmsu.edu/8-49

On Election Day, any registered voter may be absent from employment for 2 hours for the purpose of voting between the time of opening and the time of closing the polls. The appropriate supervisor may specify the hours during this period in which the voter may be absent. This does not apply to employees whose work day begins more than 2 hours subsequent to the time of opening the polls or ends more than 3 hours prior to the time of closing the polls. This Rule applies to city, county, state, and national elections.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 8 | HR-Benefits

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 06/16/2017

## Related

**Cross-Reference:**
**Revision History:**

[Re-numbered in the June 2017 ARP Recompilation (formerly Rule 7.20.15)]

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 8.50 – LOA – Jury and Witness

arp.nmsu.edu/8-50

## A. Jury Duty

In order for university employees to fulfill their civic responsibility as jurors, regular full-time and part-time employees and non-regular employees in a term appointment may be granted leave for this purpose.

1. Employees are not required to report for work after serving 8 hours of jury duty during the day. If service is less than 8 hours in a day, employees will return to work for the remainder of their 8-hour shift (or may request annual leave).
2. Jury duty is that service and time spent away from a university job as a result of a subpoena or notice issued by the court and counts as time worked.
3. Department heads are authorized to grant jury duty leave upon the presentation of a subpoena or notice issued by the appropriate court.
4. The university will pay regular employees who serve such duty their normal salary for each regular work day of service, not to exceed 8 hours per day.
5. Non-regular employees will not receive compensation; however, they may be reimbursed through or by the appropriate court.
6. A copy of a written statement furnished the employee by the court indicating the number of days or hours served should be furnished to the supervisor. It is the responsibility of the employee to keep the supervisor informed of the anticipated time to be spent away from the job.
7. Employees must use annual leave or leave without pay for jury duty/witness service in a jurisdiction other than that of their primary work locale, with the exception of employees residing in El Paso and working in Las Cruces.
8. Regular employees may not receive any form of compensation from state courts other than mileage.
9. All employees may receive compensation while serving on federal juries.

## B. Court Witness

1. University employees, as do all citizens, have the right, and on occasion the obligation, to serve as witnesses in a court of law. As such, they are not representative of the university, but are private citizens. Their conduct in the case of court appearances as private citizens should, however, reflect well on the community of university scholars.
2. Eligible employees shall be granted annual leave, or placed on leave without pay if ineligible for leave, for time spent testifying as a witness.
3. The employee should provide the supervisor with a copy of the subpoena.
4. University employees who are plaintiffs in any legal action against the university must use annual leave or leave without pay for all time spent in activities related to such action.
5. University employees appearing on behalf of the university or as a representative of the university in any legal action, to include depositions or witness testimony, will not be required to use annual leave or leave without pay for such purposes unless the employee receives a witness fee.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 8 | HR-Benefits

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 06/16/2017

## Related

**Cross-Reference:**
**Revision History:**

[Re-numbered in the June 2017 ARP Recompilation (formerly Rule 7.20.50)] [Amendment recommended by Administrative Council 06.11.13; approved by Board of Regents 06.20.13]

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 8.51 – LOA – On-Campus Job Interview

arp.nmsu.edu/8-51

Annual leave will not be charged against an employee who is requested to interview for another university position.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 8 | HR-Benefits

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 06/16/2017

## Related

**Cross-Reference:**
**Revision History:**

[Re-titled and re-numbered in the May 2017 Recompilation (formerly Rule, 7.20.10, Leave - Absences for Purpose of On-Campus Interview)]

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 8.52 – LOA – Educational (With and Without Pay)

arp.nmsu.edu/8-52

## A. Educational Leave With Pay

After 5 years of satisfactory service, leave with partial pay may be requested by any full-time faculty member on regular appointment with rank of instructor or above (including exempt staff with faculty rank in the Cooperative Extension Service), normally for the purpose of taking coursework toward a degree, professional licensure or certificate which is related to the individual's university job assignment. If granted, the recipient of such leave shall be required to sign a supplementary contract agreeing to return to the employing university unit and to serve for a minimum of 2 years. Failure to do so would require immediate full refund of all salary paid by the university during the leave. Normally, no individual may receive more than one such leave with pay. In the case of a non-tenured faculty member, time used for educational leave (with or without pay) will not apply toward the probationary period. The time granted for educational leave with pay will not normally exceed the time allowed for a sabbatical leave. The following options apply:

1. One semester at no reduction in annual salary.
2. One full academic year at half salary. (Those within 5 years of retirement may wish to request full salary for 1 semester or a 6-month period and personal leave without pay for the other half.) Semester II (spring) of 1 year and Semester I (fall) of the following year, at l/4 annual salary for each semester of leave.

## B. Educational Leave Without Pay

Any regular full-time exempt staff member or faculty member on regular appointment with rank of instructor or above is eligible for and may request an educational leave of absence without pay after 3 years of service, normally for the purpose of taking coursework toward a degree, professional licensure or certificate which is related to the individual's university job assignment. If the leave is approved, all annual leave should be used before the educational leave without pay begins. The individual's sick leave balance at the beginning of the leave remains on hold during the period of the leave. The university will contribute the employer's portion of insurance premiums during the leave period. A faculty member on

educational leave without pay, on continuous or temporary contract, will be required to notify the department head in writing 90 days before the educational leave without pay terminates, or 30 days after notification of salary and position, whichever is later as to the date of return to academic service on the faculty. In the absence of such notification, the department head may immediately initiate proceedings for termination of the contract.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 8 | HR-Benefits

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 06/16/2017

## Related

**Cross-Reference:**
**Revision History:**

[Re-numbered in the June 2017 ARP Recompilation (formerly Rule 7.20.35)]

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 8.53 – LOA – Professional Leave (Without Pay)

arp.nmsu.edu/8-53

## A. Eligibility

After 3 years of service and with the approval of appropriate department head and administrators, any regular full-time exempt staff member or any faculty member of regular appointment with rank of instructor or above may submit an application for professional leave without pay, normally not to exceed 1 year, for the purpose of undertaking some project that will directly benefit the university and the person's professional development. These benefits must be detailed in the application.

## B. Use of Accrued Annual Leave

If the leave without pay is approved, all annual leave should be used before the professional leave without pay begins.

## C. Non-Accrual of Leave During Period of Professional Leave Without Pay

Annual and sick leave do not accrue during professional leave without pay.

## D. Professional Leave Absence is Unpaid

All days, including legal holidays, in the period between the date the professional leave commences and the date the employee returns to work are taken without pay.

## E. Insurance Premiums Contribution by NMSU

The university will contribute the employer's portion of insurance premiums during the leave period.

## F. Performance Evaluation

In cases where the individual enters a contract with a state or federal agency, such agreements must provide for a calendar-year evaluation to be prepared by the appropriate supervisor in that agency and forwarded to the appropriate department head or supervisor.

## G. Effect on Tenure Process

Periods of professional leave without pay normally will not apply toward the probationary period for tenure. All conditions of professional leave without pay, including the status of the individual upon return to the university and (if appropriate) the effect of this period on tenure and promotion eligibility, must be in writing prior to the leave period.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 8 | HR-Benefits

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** Not Available

## Related

**Cross-Reference:**
**Revision History:**

Recompiled 2017, formerly Rule 7.20.60

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 8.54 – LOA – Sabbatical

arp.nmsu.edu/8-54

## A. Purpose

The purpose of a sabbatical leave is to promote professional growth and increased competence among faculty members by subsidizing significant study and research, creative work, or some other program which is judged to be of equivalent value and which cannot be accomplished during the fulfillment of normal academic duties and responsibilities. All departments and colleges including community colleges are encouraged to participate fully in the sabbatical program.

## B. Qualifications and Options

Application for sabbatical leave may be made by any tenured full-time faculty member (above the rank of instructor) with at least 12 regular semesters of full-time service at the university without a sabbatical. A faculty member who is in the last year of the probationary period may be considered for sabbatical leave if a favorable decision on tenure has already been made. Sabbatical leave may be taken in conjunction with earned annual leave, personal leave, or educational leave without pay. Personal leave and educational leave without pay must comply with university policies. In instances where, for good and sufficient institutional reasons, a sabbatical leave is delayed (not to exceed 2 years), the faculty member will become eligible for a succeeding sabbatical leave after an equivalently reduced period. A faculty member should be given as much notice as possible if a sabbatical leave cannot be approved for the time frame requested. Sabbatical leave is available under the following options:

1. One semester at no reduction in annual salary.
2. One full contract year at 60 percent salary (Those within 5 years of retirement should consult the Employee Benefits Office about the possible negative impact on the retirement benefit formula.)
3. Semester II (spring) of 1 year and Semester I (fall) of the following year, at 30 percent annual salary for each semester of leave.
   When a person has served as both a 9-month and 12-month employee in the 6-year

period immediately prior to the requested sabbatical, the amount of time allotted for the sabbatical will be prorated. A faculty member employed on a continuing basis on a 12-month contract may take a 6-month leave at full salary or a 12-month leave at 60 percent salary.

## C. Applications

Sabbatical leave will not be granted automatically upon the expiration of the necessary period of service. Rather, a qualified faculty member shall, normally at least 6 months in advance of the leave, submit an application and proposed leave program to the department head or chair, with evidence of research, creative activity, or other academic achievement, including publications, to support the program of work which is planned for the sabbatical period. Also, this program shall give reasonable promise of accomplishing the major purpose of the leave. Request for a sabbatical leave should be accompanied by a detailed explanation of the benefits to the faculty member, university, and the state resulting from the sabbatical leave. For main campus faculty, the approval of the cognizant dean, is required. For community colleges, the approval of the division dean, CAO and CEO are required. In addition to the work plan, the leave application should include: (1) a statement regarding choice of options; (2) departmental verification that during the applicant's absence, teaching, research, and service duties can be managed by the department; (3) a statement concerning compensation to be received during the leave. A faculty member on sabbatical leave at full pay usually will not take other paid employment during the leave; and (4) a clear statement of the benefit of the proposed leave to the university. A person on sabbatical at 60 percent time usually will not take more than 40 percent time employment. However, it is recognized that such employment may be necessary for or enhance the leave. In such cases, a request to take compensated employment should be included in the proposal submitted and must have administrative approval. The evaluation of an application should be based on whether the planned program satisfies the aims and goals explicitly set forth in the Purpose statement above. These aims and goals may be independent of geographical location of the leave activities and, therefore, the place of the faculty member's residence during leave should be only one factor in considering the merits of the application. However, to ensure that the sabbatical experience provides opportunities not otherwise available to the main campus faculty member, the sabbatical period will normally include a component of study/work away from the home institution.

## D. Related Conditions

Time toward each new sabbatical begins immediately after return to full-time service regardless of the semester of return. The sabbatical leave will not adversely affect salary increases or promotions. Institutional participation in faculty retirement and group insurance will be continued for staff on sabbatical leave with pay. A faculty member on sabbatical leave may request, through the department head, travel support for participation in professional meetings. Consideration will be given if the faculty member is an officer of the professional organization or is to participate in some other significant way. Educational or other leaves are excluded as time counted toward eligibility for sabbatical leave. Twelve-month faculty will accrue annual and sick leave (at 60 percent for those on 60 percent pay) and will report annual and sick leave as usual.

## E. Departmental Implementation

Long-range department plans should consider the necessity of, and provide for, temporary absences for sabbatical leave. The initial leave discussions and concomitant management of duties is primarily a matter for discussion and approval by the concerned department. However, in transmitting the final leave request to the dean and provost, the department head should provide assurance that all student needs will be served by the department during the faculty member's absence. In some departments, the absence of one faculty member might place an undue load on the other department members. After a department has taken every step possible to plan for sabbatical leaves, it should submit its proposal to the dean for consideration. The administration will attempt to accommodate these special cases.

## F. Procedures

1. At least 6 months prior to the requested leave period (exceptions to be considered on a case-by-case basis), application for sabbatical leave is submitted to the department head on a Request for Leave Form and includes the supporting materials detailed in the Application section.
2. Preliminary approval is obtained when signatures of the department head, cognizant dean, dean of the Graduate School are affixed to the Request for Leave Form. For community college faculty, preliminary approval is obtained when signatures of the department chair, division dean, CAO and CEO are affixed to the Request for Leave Form. A supplementary contract, stipulating that the faculty member is obligated and agrees to return to the university to serve a period of 1 year, and failure to do so would require immediate full refund of all salary paid by the university during the leave, is prepared and sent to the faculty member. Upon receipt of the signed

supplementary contract, final approval of the leave is granted and the faculty member is notified.

## G. Post Sabbatical Obligations

Sabbatical leaves will be approved only with the clear understanding that at the completion of the sabbatical and/or supplemental leave, the faculty member will return to the university for a period of service of 1 year. Failure to do so will require immediate full refund of all salaries and benefits costs paid by the university during the sabbatical, and repayment for any annual leave accrued and used during the extended leave. Within the first semester upon return from the sabbatical, the main campus faculty member shall submit to the provost, through the department head and dean a full report of the research, creative work, publications, or other results of the period of leave. This final report should contain a brief summary of the proposal, including a review of the objectives, as well as a summary of what was accomplished. An explanation should be given in the event that some objective(s) were not met. This report will be incorporated in the faculty member's annual written report and may be used in the annual performance evaluation process. The dean will forward the report with both the dean's and department heads comments to the provost regarding the overall value of the sabbatical to the faculty member and to the university and indicating the extent to which the sabbatical plan was accomplished. Community College faculty will submit a similar report to the Campus President through their immediate supervisor.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 8 | HR-Benefits

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 06/16/2017

## Related

**Cross-Reference:**
**Revision History:**

[Re-numbered in the June 2017 ARP Recompilation (formerly Rule 7.20.70)]

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 8.55 – Leave Without Pay

arp.nmsu.edu/8-55

**A.** Leave without Pay (LWOP) for a period up to 90 calendar days may be requested by an employee and either approved or disapproved by the director/department head. Refer to ARP 8.45 LOA – Family and Medical for leave without pay granted in accordance with the Family and Medical Leave Act.

**B.** Requests for LWOP in excess of 90 days should be requested by the employee to the department head/director. If the department head/director recommends approval, the request is forwarded through the dean or vice president to the Office of Human Resource Services for consideration. Circumstances in individual cases will determine if such leave will be granted.

**C.** An employee who is granted a leave of absence without pay must make arrangements through the Office of Human Resource Services to pay the full cost (employer and employee) of insurance premiums and make timely payments to university accounts receivable (*See* ARP 8.52 LOA – Educational (with and without pay) and ARP 8.53 LOA – Professional Leave (Without Pay) for payment requirements). Employees who do not make timely premium payments by the last day of the month are subject to having their coverage cancelled.

**D.** Annual and sick leave do not accrue during LWOP.

**E.** All days, including legal holidays, in the interim period between the date LWOP commences and the date the employee actually returns to work are taken without pay. For exempt employees, leave without pay will begin on the first eight hour day and end on the last eight hour day of the leave period. Any partial days, taken immediately before or after the official LWOP period, shall be deducted from leave accrued upon return.

**F.** An appointing authority may involuntarily place an employee on leave without pay if approved by the Office of Human Resource Services and executive vice president and provost.

**G.** LWOP (including LWOP due to educational leave) will not be granted to an individual who has annual leave unless specifically approved by the executive vice president and provost, except under the Family and Medical Leave Act.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 8 | HR-Benefits

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 06/16/2017

## Related

**Cross-Reference:**
8.45 LOA Family and Medical

8.52 LOA Educational

8.53 Professional Leave Without Pay

**Revision History:**

[Re-numbered in the June 2017 ARP Recompilation (formerly Rule 7.20.85)] [Amendments ratified by the Board of Regents 10.22.07 Amendment recommended by the Administrative Council 06.11.13; approved by the Board of Regents 06.20.13]

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 8.56 – Holiday Leave Benefit

arp.nmsu.edu/8-56

## PART 1:  HOLIDAY LEAVE BENEFIT

NMSU provides its eligible regular and non-regular term employees (as defined for staff and faculty in ARP 6.03) with fourteen days of paid holiday leave on designated dates each year.  Only employees determined to be essential to operations will be required to work on designated holidays, and those employees will receive an alternative benefit as provided in this Rule.

## PART 2:  NMSU HOLIDAY OBSERVANCE

The university is closed for business in observance of the following designated holidays:

- Martin Luther King, Jr. Day
- Spring Holiday (designated Friday in March or April)
- Memorial Day
- Independence Day (observed on July 4$^{th}$; except when July 4$^{th}$ falls on Saturday, the holiday will be observed on Friday, and when it falls on a Sunday, it will be observed on Monday.)
- Labor Day
- Thanksgiving Day and the Friday immediately subsequent
- Winter Break (seven week days including those in the period from December 24 through January 1; when December 24 falls on a Saturday or Sunday, the preceding Friday is also included and when January 1 falls on a Saturday or Sunday, the subsequent Monday is also included).

## PART 3: ELIGIBILITY FOR HOLIDAY LEAVE PAY

Except as otherwise provided in this rule, regular employees and non-regular term employees are eligible for holiday leave pay for designated holidays. Holiday leave pay is prorated for eligible part time employees.  An employee is

ineligible for holiday leave pay under these circumstances:

A. **Unexcused Absence**: The employee has an unexcused absence on their last scheduled work day preceding the holiday, or on their first scheduled work day following a holiday.

B. **LWOP Status**: The employee is on leave without pay on the day preceding the designated holiday.

## PART 4: ALTERNATIVE BENEFITS FOR HOLIDAY WORK

A. **Holiday not in Work Schedule**: When an eligible nonexempt or exempt employee's regular work schedule does not include the holiday, the supervisor will designate an alternative day of paid holiday leave within the same work week.
B. **Exempt Employees Required to Work on Holiday**: When an eligible exempt employee is required by their supervisor to work on a holiday, the supervisor will designate an alternative day as holiday leave as close to the holiday as reasonably possible, and within the same fiscal year.
C. **Compensatory Time (Comp Time) in lieu of Holiday Premium Pay**: If a nonexempt employee is required to work on one of the NMSU official holidays and has elected, in their semi-annual FLSA selection, to receive comp time in lieu of overtime pay, then the comp time hours credited for the holiday worked will be calculated in the same manner as for holiday premium pay below.
D. **Holiday Premium Pay**: Nonexempt employees required to work on a holiday, and who do not receive a day off in lieu of the holiday, will be paid holiday premium pay equal to their regular rate of pay, plus an additional 1 ½ time their regular rate of pay, regardless of the number of hours actually worked during the normal work week.
E. **Calculation of Overtime in Holiday Week**: Overtime pay calculations for those weeks with paid holidays will be determined in accordance with **ARP 7.20** Part 3. D.

## PART 5: COORDINATION WITH EMPLOYMENT START/END DATES

1. **Employment Start Dates**: Regular and non-regular term employees will not be hired with a start date between December 16 and the end of the Winter Break holiday. An exception to this restriction may be granted by the AVP HRS upon written request explaining emergent circumstances.
2. **Employment End Dates**: Eligible employees separating from NMSU will

receive the holiday leave benefit through their date of separation from NMSU service.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 8 | HR-Benefits

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 11/13/2018

## Related

**Cross-Reference:**
**See 2013 CBA Article 16, Sections 1, 2, 3, and 4**

**ARP 7.20 (Part 3 D.) – Staff Overtime Pay or Comp Time**

**Revision History:**

11/13/2018 Amendment approved by Chancellor
10/09/2018 Amendment approved by Chancellor
2017 Recompilation, formerly Rules 7.10 and 8.20 D.
06/20/2013 Amendment to Policy 7.10 approved by Board of Regents
10/22/2007 Amendment to Policy 8.20 approved by Board of Regents

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 8.57 – Academic Department Head – Leaves

arp.nmsu.edu/8-57

## PART 1: ANNUAL LEAVE

Annual leave for full time 12-month department Heads is accrued and/or paid out pursuant to **ARP 8.41 – LOA — Annual**. Department heads must complete monthly leave reports indicating annual leave usage, and the dean's office must maintain accurate leave records for each department head. Department heads will accrue annual leave beginning with the effective date of the appointment to this academic administrator position. Department heads are encouraged to take annual leave to assist them to maintain continuing effectiveness.

## PART 2: SICK LEAVE

Sick leave for full time 12-month department Heads is accrued and/or converted pursuant to ARP 8.43-LOA–Sick and ARP 8.42-LOA–Faculty Care Leave. Department heads must complete monthly leave reports indicating sick leave usage, and the dean's office must maintain accurate leave records for each department head.

## PART 3: SABBATICAL LEAVE

Service in the capacity as a department head is counted for purposes of calculating eligibility for sabbatical leave. Sabbatical leave for 12-month department heads is governed by ARP 8.54-LOA–Sabbatical. In addition to the procedures of ARP 8.54, a department head may elect to take sabbatical leave in segments. Each leave segment should be of sufficient length to permit a significant planned accomplishment. When segments are used, the accrual for the next sabbatical leave begins with the end of the academic year in which the first segment was taken.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 8 | HR-Benefits

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 10/24/2017

## Related

**Cross-Reference:**
ARP, Rule 7.20.25 - Leaves-Annual

ARP, Rule 7.20.75 - Leaves - Sick

ARP, Rule 7.20.42 - Leaves - Faculty Care Leave

ARP, Rule 7.20.70 - Leaves - Sabbatical

Regents Policy 10.00, Administrator Rights and Responsibilities

**Revision History:**

06.13.17 UAC recommended amendment; 06.14.17 amendment approved by Chancellor.
10.21.15: Board of Regents approved Policy 5.45.10 as initial Rule 5.45.108 ***Prior Revision History as Policy 5.45.10 not available.***

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 8.61 – Tuition Remission Program

arp.nmsu.edu/8-61

## A. Tuition Remission

With appropriate administrative approval from the current employer/supervisor, regular employees and non-regular employees in a term appointment are entitled to take course(s) at the university's main and community colleges totaling no more than 6 credit hours (supported by regular I & G funding) each fall and 6 credit hours each spring semester without a charge of tuition or the fees included in the tuition rate. No more than a total of 8 credit hours may be taken at the university's main and community colleges during the summer session. This does not include challenged or nontraditional courses for which the university does not receive formula funding, nor any reciprocal agreements the university might have with other higher education institutions.

1. The legal spouse or domestic partner of the eligible employee may also take the tuition-free courses. Credits not used by the employee may be used by the spouse/qualified domestic partner. The tuition free courses taken by the employee and spouse/domestic partner must not exceed 6 credit hours for the fall and spring semesters, and must not exceed 8 credit hours during the summer session. This benefit is not transferable to another university employee who is eligible for a free course.
2. Employees who take a course during working hours may be required to make up the time spent away from the work station (or take annual leave) unless enrollment is a requirement for continued employment.
3. All courses may be subject to social security federal and state tax withholdings.
4. Staff and spouses/domestic partners who enroll fulltime will be subject to the full-time tuition rate unless the free credit hours reduce their full-time hours below the full-time tuition rate.
5. Other fees not included in the tuition rate (*g.*, fees particular to a given course, late registration fees, graduation fees, thesis fees, etc.) are not included in the waiver. To see a complete list of other fees, please refer to the university college catalog.

## B. Registration

Registration follows the same procedures governing all students. Requests for Tuition Remission will be submitted electronically. Changes to class schedules require a new request to be submitted to ensure the class or classes are covered by the tuition benefit. This benefit does not apply to individuals holding graduate assistantships.

## C. Approvals and Resolution of Conflicts of Interest

When university faculty or exempt staff members enroll in a program to earn a graduate degree at this university, a potential for conflict of interest may arise as a result of the dual role as student and as a faculty or staff member. Persons in this status must demonstrate that the potential for conflict of interest will not compromise the quality of their program of study. Approval of cognizant department heads and deans will be required. Such programs are approved on a case-by-case basis by the dean of the Graduate School with the concurrence of the provost. When appropriate, the dean may confer with the Graduate Council about the potential for conflict of interest in such programs. The graduate dean may require a specific representative on such a graduate committee, possibly including off-campus representatives, as a condition for approving programs.

## D. Retiree Benefits

Retirees of NMSU are eligible for tuition remission benefits. A Retiree Tuition Remission form must be completed and submitted to the Office of Human Resource Services department each semester or summer session the retiree chooses to participate in this benefit. Changes to class schedules require a new form to be completed and submitted to ensure the class or classes are covered by the tuition benefit. Retiree spouses/qualified domestic partners are eligible to take one class if the retiree does not take any classes in the session/semester. Surviving spouses of retirees are not eligible for this benefit. *See* **ARP 8.12 Retirement, Educational** for further details.

## E. Dependent Children Reduced Tuition Program

1. The program provides a 50% discount on tuition and the fees included in the tuition rate for eligible full-time and part-time students. Other fees not included in the tuition rate (*g.*, fees particular to a given course, late registration fees, graduation fees, thesis fees, etc.) are not included in the discount. To see a complete list of other fees, please refer to the university college catalog.
2. Biological children, adopted children, and legally dependent stepchildren, under age 25 and unmarried, of regular employees, non-regular employees in a term

appointment and of official university retirees, are eligible to participate in this program.

   a. The student's status and the employee's employment status on the university census date (third Friday of the semester or last day to add or register for summer session courses) will determine participation eligibility.
   b. If the employee's status changes before the census date, the student will no longer be eligible and the charges will be recalculated.
   c. If the student reaches his/her 25th birthday before the census date, the student will no longer be eligible and the charges will be recalculated.

3. Dependents assessed the New Mexico tuition rates will receive a 50% reduction in tuition with this benefit. Dependents assessed non-resident tuition rates will receive a benefit equivalent to 50% off the New Mexico tuition rates.
4. Students must be enrolled in undergraduate or graduate courses (eligible for undergraduate or graduate tuition) on the main campus or any one of the community colleges.
5. A student enrolled in more than 18 credit hours will be charged the normal overload rate for any credits over 18.
6. Courses eligible for a grade will be included in this program; audited courses and challenged credits will be excluded.
7. The Office of Financial Aid will be informed of a student's participation in this program. A reduction of the student's financial aid package may result from the reduced tuition. Information on the possible effect of this program on the student's financial aid package should be obtained from the student's financial aid advisor.
8. All eligible dependents enrolled with New Mexico State University or its community colleges will automatically be granted the benefit upon request, except those receiving the Lottery Scholarship or who otherwise do not meet the eligibility criteria.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 8 | HR-Benefits

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 06/15/2017

## Related

**Cross-Reference:**
Rule 8.12 Retirement, Educational (ERB)

**Revision History:**

[Re-numbered in the June 2017 ARP Recompilation (formerly Rule 7.05)] [Amendment ratified by the Board of Regents 10.22.07] [Amendment approved by the Administrative Council 07.08.08; adoption of amendment ratified by the Board of Regents 07.15.08] [Amendments approved by Administrative Council 11.10.09 and 02.09.10; adoption of amendments ratified by the Board of Regents 07.20.10][Amendment recommended by the Administrative Council 04.12.11, approved by the Board of Regents 05.06.11] [Amendment recommended by the Administrative Council 06.11.13; approved by the Board of Regents 06.20.13] ][Amendment recommended by the Faculty Senate 10.02.14; approved by the Board of Regents 01.30.15]

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 8.62 – Employee Assistance Program

arp.nmsu.edu/8-62

The Employee Assistance Program (EAP) is a confidential counseling and referral service available to provide support to all university employees. Employees will not be required to use leave benefits for participation in the EAP sessions conducted on campus. EAP sessions offered off campus will require the employee to use available leave in accordance applicable administrative rules and procedures.

EAP information can be found through the Benefit Services wellness website at http://benefits.nmsu.edu/wellness/

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 8 | HR-Benefits

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 06/15/2017

## Related

**Cross-Reference:**
**Revision History:**

[Re-numbered in the June 2017 ARP Recompilation (formerly Rule 7.08)] [10.11.16 amendment recommended by University Administrative Council; 10.11.16 Chancellor approved. 06.27.16 Board of Regents approved changes in Benefits. 10.21.15: Board of Regents approved Policy 7.08 as initial Rule 7.08 *Prior Revision History as Policy 7.08 not available*]

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 8.63 – Faculty, Staff, Student Access to Certain Recreational Facilities

arp.nmsu.edu/8-63

The facilities of the Department of Human Performance, Dance and Recreation are open to all faculty/staff/students under the administration of the Intramural Office (Activity Center). (*See* the Intramural Office for more information)

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 8 | HR-Benefits

**Rule Administrator:** Executive Director Health and Wellness

**Last Updated:** 06/16/2017

## Related

**Cross-Reference:**
**Revision History:**

[Re-numbered in the June 2017 ARP Recompilation (formerly Rule 7.25)]

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 8.64 – Discounted Athletics Tickets for Eligible Faculty/Staff

arp.nmsu.edu/8-64

The Athletics Department provides season tickets at reduced rates in reserved sections for football and basketball to university regular faculty and staff and non-regular employees in a term appointment. Each employee is eligible to purchase a maximum of six football and four basketball season tickets at reduced rates. The same privileges afforded the university employee shall be extended to official university retirees and their surviving spouses. All employee and retiree tickets are for the use of the member and family and are not transferrable. The cost of tickets for retirees and their surviving spouse is 1/3 the highest cost ticket. Tickets are only issued on a season basis. Both employee and retiree tickets are subject to taxation.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 8 | HR-Benefits

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 06/16/2017

## Related

**Cross-Reference:**
2.05 Athletics

**Revision History:**

[Re-titled and re-numbered in the June 2017 Recompilation (formerly Rule 7.35, Tickets (Athletic) for Faculty/Staff)] [Amendment recommended by the Administrative Council 10.09.12; approved by the Board of Regents 10.15.12 Amendment recommended by the Administrative Council 06.11.13; approved by the Board of Regents 06.20.13]

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 8.65 – Emeritus Status

arp.nmsu.edu/8-65

## A. Emeritus Status

The university provides for the emeritus faculty member the privileges and services available to all other faculty members. In furthering this objective, the following policies pertain: Emeritus status for faculty is based upon two conditions:

1. That the faculty member is eligible for retirement under the New Mexico Educational Retirement Act or the Federal Civil Service; and
2. That the faculty member is tenured by the university; or is a college faculty who has been promoted (as per College Faculty promotion policies) to the rank of college professor.

## B. Emeritus Benefits

Individual emeritus faculty shall be listed for life as emeriti in the catalog. Emeritus faculty will receive general university publications (*g.*, *Page One*) upon request. They may be issued identification cards; be listed in the university phone directory; have on-campus office or work facilities (if available, requested, and approved); and may be requested as an emeritus consultant. (*See also* ARP 8.12 Retirement, Educational)

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 8 | HR-Benefits

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 10/27/2017

## Related

**Cross-Reference:**
**Revision History:**

*Amendment (FS Proposition 15-09/10) passed 04.29.10 and also recommended by the Administrative Council 05.11.10; approved by the Board of Regents 07.20.10]*

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 8.71 – Unemployment Compensation Benefits

arp.nmsu.edu/8-71

**A.** Unemployment compensation is paid for by the university on a self-insured basis.

**B.** Former employees may file for unemployment benefits at a local employment office in any state.

1. Student employees are not covered under unemployment compensation.
2. Nine-month employees are not eligible during the off-employment period.

**C.** When an employee has filed for benefits, the university is notified. This notification should be sent to the Office of Human Resource Services, but may be sent directly to the department. In this case, it should be sent immediately to the Office of Human Resource Services as the notification of filing must be answered within 5 days. The supervisor may be contacted to verify reasons for the employee no longer being employed.

**D.** All claims will be reviewed and contested by the university on a selective basis if the stated reason for no longer being employed is other than a layoff or temporary status (discharged through no fault of the employee) and no penalty has been assessed.

**E.** Payment of benefits is determined by the Department of Labor.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 8 | HR-Benefits

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 06/16/2017

## Related

**Cross-Reference:**
**Revision History:**

[Re-numbered in the June 2017 ARP Recompilation (formerly Rule 7.40)] [Amendment recommended by the Administrative Council 06.11.13; approved by the Board of Regents 06.20.13]

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 8.72 – Workers' Compensation Benefits and Other Assistance

arp.nmsu.edu/8-72

## PART 1: PURPOSE

This Rule explains the workers' compensation benefits made available by state law and the university assistance available to eligible employees as they transition back to work. It also explains the distinct roles and responsibilities of the injured worker, supervisory and management personnel, and the university's Worker's Compensation Specialist, as they relate to requirements of the New Mexico's State Risk Management, Workers Compensation Division. The Rule also clarifies what happens in the event an employee is not able to return to work and perform the essential functions of the job, as well as clarifies that retaliation against a person who has utilized this benefit is prohibited.

## PART 2: DEFINITIONS

A. **Compensable Injury or Illness**: Compensable Injury or Illness means an on the job injury or illness compensable under the N.M. Workers' Compensation Act.A. Compensable Injury or Illness: Compensable Injury or Illness means an on the job injury or illness compensable under the N.M. Workers' Compensation Act.
B. **MMI:** MMI means the maximum medical improvement reasonably medically expected to occur after a compensable injury or illness.
C. **Modified Duty Assignment**: Modified Duty Assignment is a temporary assignment to modified job duties that the employee is qualified to perform, to accommodate temporary medical restrictions caused by a compensable injury or illness and is intended to help transition the employee back to work.
D. **Qualified Employee**: Qualified Employee is any NMSU employee temporarily unable to perform the duties of the employee's current job classification as a result of a compensable injury or illness, and typically who has not yet reached MMI.

# PART 3: WORKERS' COMPENSATION BENEFITS, GENERALLY

A. **Benefits Payable:** The benefits payable to an employee with a compensable injury or illness include payment for medical, surgical, and drug expenses, as well as weekly compensation after the first seven (7) days of disability or the first 40 hours of work. If the period of injury or illness lasts for more than four (4) weeks from the date of injury, compensation benefits will be allowed from that initial accident date.

B. **Combined Workers Compensation and Accrued Leave Benefits**: Employees may offset their weekly workers' compensation benefit with their sick/annual leave. Total compensation, to include annual/sick leave and workers' compensation benefits, may not exceed the employee's regular rate of pay.

C. **Maximum Leave of Absence Period:** The university will place the employee on paid leave or leave without pay, as appropriate, during the period the employee is receiving payment from the Workers' Compensation carrier up to a maximum of one (1) year. The department may fill the position with a temporary employee, and is not required to hold the original position open permanently.

D. **Continuing Benefits After All Leaves Exhausted:** Once all accrued paid leaves have been exhausted, an injured employee unable to return to work may retain health and other insurances offered through NMSU by paying the total insurance premium(s) due, in accordance with HRS Rules governing Benefits. Contact an HR – Benefits representative at 575-646-8000.

E. **Consequences after One Year Leave of Absence or after three Months from reaching MMI:** The options available to the injured employee after one year, or after 3 months, if the employee has reached maximum medical improvement, are the following:

   1. The employee may accept employment in a position for which the employee is qualified and able to perform the essential job functions, if a position is available.
   2. The employee may retire, if qualified, under the rules of the Educational Retirement Board.
   3. The employee may resign or be separated from service in accordance with the university's procedures when an employee is not able to perform the essential functions of the job. In the event an involuntary separation from service is proposed, the university will notify the NM Risk Management Division, Workers Compensation Department before proposing such action to the employee.

# PART 4: WORKERS COMPENSATION CLAIMS PROCESSING

A. **Employee Reports any On-The-Job Accident, Injury or Occupational Disease:** The employee must report all on-the-job accidents, injuries or exposures immediately to the employee's supervisor by completing and submitting the Notice of Accident or Occupational Disease Disablement Form, whether or not medical care seems to be needed.

B. **Supervisor or Workers Compensation Specialist Completes First Report of Injury or Illness:** The employee's supervisor/or workers compensation specialist will complete the Employer's First Report of Injury or Illness Form.

C. **Injured or Ill Employee Completes Medical Release:** The employee will complete an Authorization to Release Medical Information and a Claims Explanation Form when the injury requires any form of medical treatment.

D. **Supervisor Completes Required Forms:** The employee's supervisor must ensure the Employer's First Report of Injury or Illness Form is completed and sent to the workers compensation specialist within 24 hours of the injury or illness, or as soon as practicable under the circumstances. The supervisor most immediately responsible for the operation must complete the NMSU Supervisor Accident Investigation Report or equivalent, whether or not medical care is rendered. The investigation shall be initiated as soon as possible, but within two working days. A copy of the investigative report shall be furnished to the investigator's immediate supervisor for signature and then submitted to Environmental Health and Safety.

E. **Benefits in Event of Missed Work:** When an employee is injured, the employee will be placed on sick leave or leave without pay if the injury is severe enough to cause a loss of work time. Pursuant to university rules, which are subject to change by the Board of Regents, sick leave is not required to be taken to visit the Campus Health Center (CHC), nor for the day of injury. Sick or other available accrued leave will be charged for all off-campus doctor visits and/or physical therapy. Leaves continue to accrue as long as the employee is on leave and receiving a paycheck.

F. **Payment of Workers Compensation Benefits:** New Mexico Risk Management will send the Worker's Compensation checks to the injured worker unless otherwise instructed by the Workers Compensation Specialist. The employee will retain the compensation check, which is sixty six and two thirds percent (66.6%) of the weekly wage at time of injury.

G. **Investigative Follow Up Required:** Regardless of whether the injury or illness required medical care, supervisors must gather the facts relating to accident or incident as soon as possible, and generally should be within three business days. The NMSU Supervisor Accident Investigation Report form should be utilized and routed through the next level supervisor or Department Head to Environmental Health

and Safety. Environmental Health and Safety will evaluate the adequacy of the actions taken to avoid reoccurrence of loss within thirty days from receipt. When a more complex investigation will be required due to the nature or severity of the incident, the personnel investigating or the timelines may be extended by the Executive Director of Environmental Health and Safety in consultation with the Office of General Counsel.

## PART 5: RETURN TO WORK; MODIFIED DUTY PROGRAM; REASONABLE ACCOMMODATION; AND INVOLUNTARY SEPARATION

A. **Temporary Assignment to Modified Work Duties:** The university will assist qualified employees as they transition back into the workforce by providing a modified duty assignment for a temporary period as may be feasible. Modified duty assignments may require job duties outside the employee's usual job description or work unit. This authorization to assign employees to modified job duties does not require nor authorize the creation of a distinct job classification. Assignment to modify duty assignment will be done in coordination with the university's Workers Compensation Specialist to ensure that sound claims management procedures have been accomplished, and that legal mandates have been met. Vacant positions resulting from job related injuries or illnesses shall not be filled, except by temporary employment unless one of the two following situations exists:
   1. If there is a documented medical diagnosis or evidence that an employee with a job-related injury or illness has reached maximum medical improvement or that the employee's impairment or condition is permanent and that the employee cannot perform the essential functions of the particular job. *No employee will be terminated from employment because of a job-related injury or illness or physical circumstances resulting from a job-related injury or illness unless the university has provided advance notice to the state risk management division.*
   2. If there is a critical need and that need cannot be satisfied with temporary employment, and the employer has made a "good faith" effort to do so.

B. **Determination of Availability of Modified Work Assignment within Home Department or Home Division:** The modified duty assignment will be determined by way of a coordinated effort between the Workers Compensation Specialist, the employee's immediate supervisor, and the Dean, Vice President or equivalent or designee.

C. **Determination of Availability of Modified Work Assignment Within NMSU System:** If there is no modified duty opportunity within the home department or home division, the Workers Compensation Specialist will coordinate with the appropriate personnel in the offices of Human Resource Services and Institutional Equity to

ascertain whether or not a modified duty assignment or other reasonable accommodation is available outside the division, within the university system under the ADA Petition for Accommodation process.

D. **Position Funding:** The home department and/or division is responsible for continuing to fund the injured or ill employee's job position while the employee is assigned to temporary modified duty, unless otherwise arranged by authorized university personnel.

E. **Length of Modified Duty Assignment:** Modified duty assignments generally will be of less than ninety (90) days duration, but may be extended with the approval of the university's Workers' Compensation Specialist, with concurrence of the appropriate supervisor and vice president, dean or equivalent administrator. The fact that the university has provided a temporary assignment to modified job duties should not be construed as reasonable for purposes of a permanent accommodation under the ADA accommodation process.

F. **Consequences for Declination of Offer of Modified Duty Assignment or Other Lack of Cooperation:** An employee who declines an offer of a modified duty assignment or otherwise fails to cooperate with reasonable requests or directives relating to the university's efforts to accommodate the injury and assist the worker in transitioning back to work, may result in a loss of workers compensation benefits or in involuntary separation from employment based on inability to perform the essential functions of the job, in accordance with the university' rules and subject to the requirement to provide advance notification to the New Mexico State Risk Management Division, Workers Compensation Division. ***See*** Part 4, H. 1. above.

# PART 6: ROLES AND RESPONSIBILITIES

## A. Employee Responsibilities

Employees subject to this rule shall:

1. Demonstrate ethical and honest conduct with regard to a workers compensation claim and benefits, including following all procedures and complying with all reasonable requests and directives from NMSU officials.
2. Follow all medical advice and treatment prescribed by the employee's medical providers.
3. Return to full time employment at the expiration of the period for the modified duty assignment period, provided that the medical documentation supports a finding that the employee's condition will permit the employee to perform the essential functions of the job, with or without reasonable accommodation.

4. If the employee is not medically expected to be able to perform the essential functions of the job held prior to the compensable injury or illness, the employee may at any time seek assistance from the Office of Institutional Equity to discuss options for a reasonable accommodation.

## B. Employer Responsibilities

The employer NMSU entity of the injured or ill employee shall:

1. Coordinate with the employee, the university's workers' compensation specialist, the employee's health care provider and/or assigned Workers Compensation adjuster, in consultation with the Office of Human Resource Services, as necessary, to identify a suitable modified duty assignment.
2. Protect the privacy of the injured employee, including maintenance of confidentiality of any medical information and documentation.
3. The employee's supervisor will ensure that the employee's leave records are computed accurately based on the amount of compensation paid, and will reconcile all leave records with the university's Workers' Compensation Specialist.
4. Refrain from any action or failure to act that reasonably could be construed as retaliation against an employee who avails themselves of the workers compensation benefits provided by the university through the State. Also, any university supervisor or manager who reasonable suspects retaliation shall report it immediately to the university's Worker's Compensation Specialist.
5. Communicate to and cooperate with the university's Workers Compensation Specialist about all issues pertaining to employees who receive workers compensation benefits, including but not limited to monitoring the work performance of the employee assigned to modified duty to determine the continuing need for modified job duties.
6. With the approval of the university's Workers' Compensation Specialist and concurrence from the appropriate vice president, dean or equivalent administrator, the supervisor may extend the modified duty assignment by thirty (30) calendar days, or until next medical follow-up appointment, provided modified duty remains available.

## C. Responsibilities of the Office of Workers' Compensation Specialist

The Office of Workers' Compensation Specialist shall:

1. Serve as a coordinator between the NMSU entities, the injured or ill employee, and the state workers' compensation insurance pool with regard to compensation, medical care, available modified duty assignments and return to work issues.

2. Protect the privacy of the injured employee, including maintenance of confidentiality of any medical information and documentation, sharing only with authorized university and NM State Risk Management personnel.
3. Assist the employee qualified to return to work or modified duty with issues arising during the transition back to the work force, as well as with other issues such as including coordination with the employee's supervisor regarding the amount of leave charged to supplement the employee's paycheck, as well as the amount that may continue to accrue.
4. If at the end of the modified duty assignment and/or at upon the employee reaching MMI, if the employee cannot perform all functions of the regular job, the workers' compensation benefits specialist will refer the employee to the Office of Institutional Equity for assistance with regard to filing for a reasonable accommodation under the ADA Petition for Accommodation process.
5. In the event of a report of suspected retaliation against an employee who is accessing workers compensation benefits, shall immediately report to the Assistant Vice President of Human Resource Services for investigation and corrective action, as may be appropriate.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 8 | HR-Benefits

**Rule Administrator:** Executive Director Health and Wellness

**Last Updated:** 06/15/2017

## Related

**Cross-Reference:**
**Revision History:**

[Re-numbered in the June 2017 ARP Recompilation (formerly Rule 7.45)] [08.09.16 UAC recommended approval; 08.09.16 Chancellor approved. 10.21.15: BOR approved Policy 7.45 as initial Rule 7.45. Prior Revision History as Policy 7.45: 12.13.11 amendment recommended by Administrative Council; 01.30.12 approved by Board of Regents. 10.22.07 amendments approved by Board of Regents. ]

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# Chapter 9 | HR – Performance Evaluation, Promotion and Tenure

arp.nmsu.edu/chapter-9

## Subsections in Chapter 9


- 9.01 – Staff Probationary Period
- 9.05 – Staff Performance Evaluation
- 9.10 – Staff Internal Promotion Process
- 9.11 – Staff Trainee Path to Internal Promotion
- 9.18 – Non-Tenure Track Faculty -Evaluation, Promotion and Salary Adjustments
- 9.20 – [Pre-AY 18/19] Faculty Performance Evaluation
- 9.21 – [Pre-AY 18/19] Faculty Promotion and Tenure – Introduction
- 9.22 – [Pre-AY 18/19] Faculty Promotion and Tenure – Glossary
- 9.23 – [Pre-AY 18/19] Faculty Promotion and Tenure – Guiding Principles
- 9.24 – [Pre-AY 18/19] Faculty Promotion and Tenure – Criteria
- 9.25 – [Pre-AY 18/19] Faculty Promotion and Tenure – Policies
- 9.30 – [Effective AY 18/19] Overview of Faculty Evaluation, Promotion and Tenure Rules; Definitions; Periodic Rules Review
- 9.31 – [Effective AY 18/19] Annual Performance Evaluation – Regular Faculty
- 9.32 – [Effective AY 18/19] Faculty Promotion and Tenure: Purpose and Guiding Principles
- 9.33 – [Effective AY 18/19] Faculty Promotion and Tenure: The Professorial Ranks
- 9.34 – [Effective AY 18/19] Faculty Promotion and Tenure Committees; Common Elements Required in the Principal Unit Policies
- 9.35 – [Effective AY 18/19] Faculty Promotion and Tenure Reviews: Procedural Guidelines and Timeline
- 9.36 – Faculty Post Tenure Review
- 9.40 – Tenure Track Faculty – Pre-Tenure Period
- 9.41 – Tenure Track Faculty – Procedure for Award of Continuous Contract upon Award of Tenure
- 9.42 – Tenure Track and Tenured Faculty – Resignation Notice
- 9.43 – Tenure Track Faculty – Process for Non-Renewal of Annual Contract
- 9.60 – Administrative Reviews
- 9.61 – Administrative Review of Deans and Community College Presidents

- 9.62 – Administrative Review of Associate Deans and Community College Academic Officers
- 9.63 – Administrative Review of Department Heads or Community College Equivalent and Community College Division Deans or Equivalents
- 9.64 – Administrative Review of Directors or Equivalents of Academic School, Center or Program
- 9.81 – Employee Recognition
- 9.85 – Endowed Faculty Chairs and Professorships

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 9 | HR - Performance Evaluation, Promotion and Tenure

**Rule Administrator:**
**Last Updated:** 09/20/2017

## Related

**Cross-Reference:**
**Revision History:**

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 9.01 – Staff Probationary Period

arp.nmsu.edu/9-01

## PART 1: PROBATIONARY PERIOD-REGULAR EMPLOYEES

### A. Probationary Status

The probationary period is an essential part of the employment process and shall be used as an assessment period for employees and supervisors. Probationary employees have no entitlement or expectation to continued employment during the probationary period. During the probationary period, an employee may be terminated with or without cause and without recourse to the pre- or post-action grievance procedures, except in cases alleging discrimination. Probationary employees may be terminated by providing at least 24 hours' notice after having obtained approvals from the assistant vice president for human resource services and the appropriate dean or vice president, as provided in **ARP 10.10**, Section E. A probationary employee may also resign without notice at any time during the probationary period.

### B. Length of Probationary Period

The length for each probationary period served shall be the first 6 months of employment with NMSU for regular nonexempt employees, and the first 12 months of employment with NMSU for regular exempt employees. Time served in a non-regular hire status does not apply towards completion of the initial probationary period.

## PART 2: SUBSEQUENT PROBATIONARY PERIOD(S) –EXEMPT EMPLOYEES

Exempt employees who voluntarily accept a new job, a promotion or a transfer within NMSU will serve an additional probationary period and are subject to the terms in Part 1. The length of the subsequent probationary period shall be the same as defined above, unless adjusted pursuant to Part 3.

# PART 3: ADJUSTMENT TO LENGTH OF PROBATIONARY PERIOD(S)

## A. NMSU System Wide Extension of Probationary Status

The length of the initial probationary period for all staff employees may be extended when deemed necessary by the Chancellor during times of planning for significant budget reductions or other financial uncertainty. Notification shall be made through the Office of Human Resource Services at the direction of the Chancellor and may be effective immediately.

## B. Individual Extension of Employee Probationary Status

The director/department head may exercise discretion to request an extension of the initial or subsequent probationary period when an employee's performance demonstrates a need for additional time to acquire the skills required for the job. Requests to extend a subsequent probationary period should be submitted in writing 2 weeks prior to completion of the probationary period, supported by a performance evaluation, and forwarded to the Office of Human Resource Services for consideration.

## C. Early Completion of Second or Subsequent Probationary Period

The director/department head may request an adjustment to the length of an exempt employee's second or subsequent probationary period. There may be cases in which employees demonstrate exceptional qualities that would permit reduction of the probationary period.

# PART 4: PROBATIONARY PERIOD EVALUATION REPORT – NONEXEMPT EMPLOYEES

Prior to completion of the probationary period, the supervisor completes the Performance Evaluation Form and forwards it through channels to the Office of Human Resource Services for inclusion in the employee's personnel file. A Personnel Action Form should accompany the evaluation report if the employee is a new hire and was hired at the entry level. Normally evaluations with outstanding marks are reserved for employees who have consistently, over a period of time demonstrated outstanding performance.

# PART 5: SALARY ADJUSTMENT FOR SUCCESSFUL COMPLETION OF PROBATION- NONEXEMPT EMPLOYEES

*See* ARP 7.01 – Staff Compensation, Section I.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 9 | HR - Performance Evaluation, Promotion and Tenure

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 06/21/2016

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 8.50 Parts 1–5

06/21/16 Recompilation approved by Chancellor

10/21/15 Policy 8.50 approved as initial Rule 8.50 by Board of Regents

07/21/15 Amendment to Policy 8.50 approved by Board of Regents

04/27/15 Policy 8.50 provisionally amended by Chancellor

07/29/09 Amendment to Policy 8.50 ratified by Board of Regents

09/09/08 Amendment to Policy 8.50 approved by Administrative Council

10/22/07 Amendment to Policy 8.50 ratified by Board of Regents

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 9.05 – Staff Performance Evaluation

arp.nmsu.edu/9-05

## PART 1: PERFORMANCE EVALUATION COMPLETION SCHEDULE

An evaluation should be completed:

A. After completion of a probationary period for nonexempt employees (may also be used for the annual evaluation if completed in December, January or February).
B. Annually for purposes of allocating merit increases.
C. Any time a supervisor considers an evaluation necessary.
D. Upon transfer of an exempt employee to a new organizational unit.

## PART 2: PERFORMANCE EVALUATION – NONEXEMPT STAFF

A. Evaluations will be made on the official Nonexempt Performance Evaluation Form.
B. The form will be completed by the immediate supervisor and then reviewed and signed by the appropriate second level supervisor prior to discussion with the employee. The employee will be provided with a copy of the completed form within 10 working days of the supervisor's signature.
C. The evaluator should discuss the evaluation with the employee to avoid the possibility of misinterpretation. (This discussion should occur after the reviewer has signed the form.)
D. The employee may discuss the rating with the reviewer prior to the evaluation being forwarded to the Office of Human Resource Services or being filed.
E. If the employee does not agree with the evaluation and does not want to go through a formal appeal procedure, the employee may prepare an addendum to the evaluation to be placed in the employee's personnel file within 15 working days after receipt of the evaluation form containing all necessary signatures.
F. In the event that a supervisor is not able to evaluate due to lack of longevity in the position or lack of knowledge about the employee, the supervisor may designate a

responsible official to complete the Performance Evaluation Form. If this is done, the supervisor must co-sign the evaluation form with the designated official.

G. The employee's current supervisor is responsible for completing the evaluation process and may consult with previous supervisors of the employee in assigning evaluation scores.

## PART 3: PERFORMANCE EVALUATION – EXEMPT STAFF

A. Each major administrative unit should utilize a form approved by the assistant vice president for human resource services or the university approved form.
B. All exempt employees will be evaluated at least once a year. If performance becomes a concern, interim evaluations may be administered.

## PART 4: PERFORMANCE EVALUATION – APPEALS

An employee appeal may be forwarded in writing to the assistant vice president for human resource services within 15 working days of receipt of the evaluation form containing all necessary signatures. The appeal should state specifically what area(s) of the evaluation are being appealed and why. The Office of Human Resource Services will review the appeal and attempt conciliation. Performance evaluations with overall ratings of unsatisfactory, needs improvement or does not meet expectations may be appealed using the grievance procedure.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 9 | HR - Performance Evaluation, Promotion and Tenure

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 06/21/2016

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 8.50 Parts 6–9

06/21/16 Recompilation approved by Chancellor

10/21/15 Policy 8.50 approved as initial Rule 8.50 by Board of Regents

07/21/15 Amendment to Policy 8.50 approved by Board of Regents

04/27/15 Policy 8.50 provisionally amended by Chancellor

07/29/09 Amendment to Policy 8.50 ratified by Board of Regents

09/09/08 Amendment to Policy 8.50 approved by Administrative Council

10/22/07 Amendment to Policy 8.50 ratified by Board of Regents

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 9.10 – Staff Internal Promotion Process

arp.nmsu.edu/9-10

Procedural guidelines for the internal promotion of regular employees includes:

A. The promotion should be within a major organizational unit, such as a college or vice president's area. Employing departments are encouraged to notify all employees in the organizational unit of the promotional opportunity.
B. The salary increase on promotion will be in accordance with **ARP 7.01 – Staff Compensation**. Nonexempt promotions of four or more grades and exempt promotions of three or more levels may require advertisement.
C. New employees will not normally be considered for a promotion outside their current department until they have completed their initial probationary period. Requests for exception must have the written release of the current supervisor and approval of the Office of Human Resource Services.
D. The employee must meet the minimum qualifications for the higher level position.
E. An E-Hire Form should be submitted after the Office of Human Resource Services has determined that the employee meets all qualifications for the new position. The employee should be notified only after approval is received from the Office of Human Resource Services.
F. The department that the employee is leaving initiates and forwards an E-Hire Form and leave records to the hiring department.
G. Equal Employment Opportunity/Affirmative Action commitments will be considered during promotions.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 9 | HR - Performance Evaluation, Promotion and Tenure

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 10/17/2017

## Related

**Cross-Reference:**
**Revision History:**

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 9.11 – Staff Trainee Path to Internal Promotion

arp.nmsu.edu/9-11

## A. Creation of Trainee Position

When qualified applicants are not available to fill a position, or the employing department desires to establish a trainee position, the director/department head, (in cooperation with the Office of Human Resource Services) may develop a job development program that will provide an opportunity for the individual to become qualified for a position. Normally, the salary schedule for the trainee will not be less than 80 percent of the minimum non-probationary salary for the position and will provide for periodic incremental increases.

## B. Apprenticeship Training (applicable to recognized apprenticeship programs only)

Apprenticeship programs may be submitted for approval by the Office of Human Resource Services.

## C. Preference in Hiring

Apprentices who have satisfactorily completed the training may be promoted to the first available position for which they are qualified without competitive advertising with prior approval by the Office of Human Resource Services. All apprentices assigned to the university through federal, state, or local programs may be placed on temporary employment status. Prior to the end of the employment period, the employee will receive a performance evaluation report and either be terminated or granted a regular appointment.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 9 | HR - Performance Evaluation, Promotion and Tenure

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 10/19/2017

## Related

**Cross-Reference:**
**Revision History:**

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 9.18 – Non-Tenure Track Faculty -Evaluation, Promotion and Salary Adjustments

arp.nmsu.edu/9-18

**A.** Each regular and non-regular non-tenure-track faculty member will be evaluated annually during the term of employment if the employment is renewed for more than one academic semester. The evaluation will be based on those duties described under the terms of employment as agreed upon by the individual and supervisor under the general headings of teaching or research or professional service or administrative duties, or some combination thereof. A copy of the written evaluation will be given to the faculty member.

**B.** Promotion in rank and salary adjustments will be made on the basis of the above-mentioned written evaluations and the availability of funds.

**C.** Meritorious performance may be rewarded by encouraging non-tenure-track faculty to apply for a tenure-track faculty position.

**D.** College faculty in regular status shall participate in the merit system.

**E.** Each college will develop separate policies, procedures, and criteria for the promotion of non-tenure-track faculty. These are subject to final approval by the executive vice president and provost. These promotions will be handled in the same time period and with documentation similar to that for tenure-track faculty promotions.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 9 | HR - Performance Evaluation, Promotion and Tenure

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 10/17/2017

## Related

**Cross-Reference:**
**Revision History:**

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 9.20 – [Pre-AY 18/19] Faculty Performance Evaluation

arp.nmsu.edu/9-20

## PART 1: POLICY STATEMENT

The performance of each faculty member will be reviewed at least once a year by the department head, comparable administrator, or a committee. This review will include a written report submitted by the faculty member. The form(s) of this report shall be determined by individual colleges (community colleges) in consultation with their departments. The department head or comparable administrator shall report the results of this review to the individual being reviewed. These results shall serve to establish the goals for the following year. A written copy of the evaluation shall be given to the faculty member.

## PART 2: PROCEDURES FOR THE FACULTY PERFORMANCE EVALUATION SYSTEM

A. Each college uses its own performance evaluation form. Early in each fall semester the department head or comparable administrator supplies each faculty member with a form. At this time the department head confers with new faculty members concerning the recording of objectives and goals and the general use of the form. In the case of continuing faculty members, the department head or faculty may request a conference for the purpose of revising or updating objectives previously agreed upon. Department heads will share the above agreements in writing with the faculty member.
B. Department heads are expected to meet with all new and returning faculty members regarding progress toward promotion and tenure and to certify in writing to the appropriate dean that these meetings have occurred. Specific evaluative comments in each of the three areas of performance are required, as well as separate comments about progress toward tenure and toward promotion.
C. Student evaluations considered as part of performance evaluations, may not include numerical ratings, letter grades, or other “scores” of specific

aspects of the course, the course as a whole, or of the instructor.

D. Each faculty member completes a written form detailing and citing accomplishments in the broad categories of teaching, research and/or creative scholarship, and service during the performance evaluation period. The type, method of collection, and disposition of evidence regarding effectiveness of teaching is of particular importance, and faculty should consult with department heads concerning collection of this evidence. The performance evaluation form, along with any supplemental material, is submitted by each faculty member to the faculty member's department head.
E. The department head reviews the faculty performance forms, prepares a written evaluation based upon accomplishments reported as compared with previously set goals and objectives (a copy of this report will be shared with the faculty member), and confers with appropriate deans to achieve consensus on the written recommendation and the prepared summary to be discussed with the faculty member. Following the conference with the dean, the department head meets with the faculty member to discuss all aspects of the performance evaluation, addressing separately the person's progress toward promotion, progress toward tenure, strengths, and weaknesses. This conference also serves to set goals and objectives for the ensuing year. No mention shall be made at this conference of the recommendation in terms of dollars. These goals and objectives will be placed in writing, with a copy to the faculty member.
F. At community colleges with program coordinators, the coordinator performs the duties of a department head in the evaluation process. The coordinator will confer with the community college executive officer, who in turn confers with the executive vice president and provost.
G. Department heads formulate recommendations where appropriate regarding promotion and tenure on the basis of policies stated in this manual. These are communicated to the college dean.
H. Each college generates its own time schedule for accomplishing the above items, within the parameters of the university calendar.
I. It will be the function of the Faculty Senate to legislate policy, rules or procedures regarding the Faculty Performance Evaluation System.

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 9 | HR - Performance Evaluation, Promotion and Tenure

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 05/20/2019

## Related

**Cross-Reference:**
**Combined P & T Rules Through 08/12/2018 (PDF)**

**Combined P & T Rules After 08/12/2018 (PDF)**

**Revision History:**
05/20/2019 Amendment [FSP Prop 16-18/19] approved by Chancellor
2017 Recompilation, formerly Rule 5.86

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 9.21 – [Pre-AY 18/19] Faculty Promotion and Tenure – Introduction

arp.nmsu.edu/9-21

**(fka 5.90.1)**

A. Promotion and tenure decisions are the means by which NMSU rewards and retains its most valued scholars, sustains excellence in its instructional disciplines, and fulfills its mission to advance knowledge. The quality of faculty accomplishments in teaching and advising (or its equivalent), scholarship and creative activity, extension, outreach and service largely determines the quality of the university as a whole. The granting of tenure or promotion to associate or full professor represents a prediction by the university that the individual concerned will continue to make substantial contributions to the profession and the university.
B. The processes involved in promotion and tenure rely upon basic principles in order to be effective. Above all, the promotion and tenure processes must be fair, transparent, and participatory. These values mean that decisions must be made without regard to race, national origin, gender, gender identity, age, disability, political beliefs, religion, marital status, sexual orientation, special friendships, or animus towards candidates, taking care to avoid conflicts of interest, structural, institutional, or habitual thoughts and patterns that could lead to discrimination. NMSU values the richness that inquiry based upon intellectual and cultural differences brings to the university community.
C. Each principal unit must develop written standards by the end of the Spring Semester of 2008 based on criteria developed by that principal unit subject to the approval of the dean or equivalent administrator. Criteria and procedures must be clear and readily available to all participants and must be followed by all participants at each level of the process (See **Combined P & T Rules Through 08/12/2018** or **Combined P & T Rules After 8/12/2018**). Therefore, it is imperative that clear standards for annual performance evaluation, promotion, and tenure be articulated and broadly publicized. Applicants for tenure or promotion must be judged on their performance of the duties assigned to them, following agreed-upon allocations of effort. The process needs to involve broad consultation by

groups and individuals with successively broader views of the mission of the university, and provide the opportunity for appeal. In order to achieve fairness, transparency, and broad-based participation, all of the parties must base decisions on the documentation called for by this rule.

D. This rule relies on the four types of scholarship defined by Ernest L. Boyer (1990) in his book "Scholarship Reconsidered", namely, the scholarships of discovery, of teaching, of integration, and of engagement. Broadening the definition of scholarship *(See* **ARP 9.24** Part 2 Scholarships and Creative Activity) reflects the changing roles of faculty members in teaching and advising, scholarship and creative activity, extension, outreach and service.
E. This rule (formerly policy) takes effect at the beginning of the Fall Semester, 2008.

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 9 | HR - Performance Evaluation, Promotion and Tenure

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 08/01/2008

## Related

**Cross-Reference:**
**ARP 9.24 – [Pre-AY 18/19] Faculty Promotion and Tenure – Criteria**

**Combined P & T Rules Through 08/12/2018 (PDF)**

**Combined P & T Rules After 08/12/2018 (PDF)**

**Revision History:**
2017 Recompilation, formerly Rule 5.90.1
07/15/2008 Amendments ratified by Board of Regents, with 08/01/2008 effective date

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 9.22 – [Pre-AY 18/19] Faculty Promotion and Tenure – Glossary

arp.nmsu.edu/9-22

**(fka 5.90.2)**

Key terms used throughout this document are defined here.

A. **Allocation of Effort**: The percentage of effort, agreed upon by the faculty member and department head or supervisor, that the faculty member will devote to each of the major categories of teaching and advising (or its equivalent), scholarship and creative activity, service, extension, outreach and other assigned duties.
B. **Annual Performance Review**: *See* **ARP 9.20 — [Pre-AY 18/19] Faculty Performance Evaluation**.
C. **College Faculty**: A faculty member on a regular (0.5 FTE or greater) appointment, who is not eligible for tenure**.** (*See also* **ARP 6.03 Employment Categories**; **ARP 6.35 – Non-Tenure Track Faculty Appointments**).
D. **Core Document**: A document submitted in the portfolio for promotion or tenure that includes several specific elements: a routing form, cover sheet, table of contents, curriculum vitae, executive summary, department head and dean letters, prior and current allocation of effort statements, annual performance evaluations, summary of teaching evaluations, and letters of support. (*See* Rules **ARP 9.25** Parts 1 and 5).
E. **Curriculum Vitae**: A detailed summary that reflects the candidate's educational and academic experiences that are relevant to the position.
F. **Documentation File**: An organized collection of supplemental documents and other materials that supports, explains, or clarifies the quality and significance of the candidate's work. Administrators and committee members must have access to this file, which is stored by the Principal Unit.
G. **Executive Summary**: A summative report and personal statement by the candidate that addresses their activities in and philosophies regarding teaching and advising (or its equivalent), scholarship and creative activity, service, extension, outreach, and other assigned areas.
H. **Extension**: The process of defining and building relationships between

communities and the university to extend university resources and intellectual expertise through coalition building, non-formal educational programs, and applied research designed to address locally identified needs.

I. **Flexibility in Tenure-Track**: The extension or reduction of the pre-tenure probationary period under certain circumstances.
J. **Formative Evaluation**: Evaluation that allows for continuous feedback and improvement.
K. **Joint Appointment**: A faculty line shared between two departments or colleges; the appointee enjoys all the privileges and incurs all the responsibilities normally given in each area.
L. **Mid-probationary Review**: A formal, non-mandatory mid-term assessment requested by a tenure-track faculty member of their professional development and progress toward tenure. The mid-probationary review is in addition to the annual performance evaluation.
M. **Outreach**: Entails an organized and planned program of activities which are offered to citizens of New Mexico and the nation; these activities bring the resources of the university to bear in a coherent and strategic fashion for the benefit of the receiving entity.
N. **Peer Evaluation**: Assessment of teaching style, content, and effectiveness gained through observation by colleagues; the observations may come in such forms as classroom visits, participation in web-based courses, review of videotaped teaching, or reviews of course materials collected/created by the faculty member being reviewed.
O. **Performance Evaluation**: An annual report prepared by the faculty member documenting activities in the areas of teaching and advising (or its equivalent), scholarship and creative activity, service, extension, outreach, and other assigned areas. The department head (or other assigned supervisor) provides the faculty member with a written appraisal of the faculty member's performance.
P. **Portfolio**: Consists of the core document and documentation file that supports the candidate's case for promotion or tenure.
Q. **Post-tenure Review**: An annual review designed to identify strengths and weaknesses of the tenured faculty member in the areas of teaching and advising (or its equivalent), scholarship and creative activity, service, extension, outreach and other assigned areas. The Performance Evaluation generally serves the above aim; however, if deemed necessary due to deficiencies, a more extensive review may be initiated. (*See* **ARP 9.36 – [Pre- AY 18/19] Post-Tenure Review**).
R. **Probationary Period**: The cumulative amount of time spent under term appointments while on the "tenure-track." (*See* **ARP 9.23** Part 6 – Flexibility

in Tenure Track).

S. **Principal Unit**: A tenure home unit responsible for conducting annual faculty performance evaluations and making promotion and tenure decisions. This definition includes Departments, Colleges, Community Colleges, Cooperative Extension Service, and the Library, but not centers, clusters, or institutes.
T. **Research**: (*See* Scholarship).
U. **Scholarship**: Both activity and product, scholarship includes discovery through original research; integration through synthesizing and reintegration of knowledge; application through professional practice; and teaching through transformation of knowledge. (*See* Boyer, 1990 and **ARP 9.24** Part 2 Scholarships and Creative Activity).
V. **Supporting Documents**: Material available to the Promotion and Tenure Committee in the Documentation File that serves to further support, explain, or clarify the Core Document.
W. **Tenure**: Continuous contract granted after a probationary period to a faculty member that gives protection from dismissal without due process; the primary purpose of tenure is to protect academic freedom and offer economic security.
X. **Tenure Clock**: (*See* Rule **ARP 9.23** Part 6 – Flexibility in Tenure Track)
Y. **Tenure Home**: The principal unit where tenure and rank resides or will reside.
Z. **Tenure-Track Faculty**: A faculty member who is eligible for tenure but who has not yet been granted tenure.
AA. **Tenured Faculty**: A faculty member who has been granted a continuous contract by the university.

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 9 | HR - Performance Evaluation, Promotion and Tenure

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 08/01/2008

## Related

**Cross-Reference:**
**ARP 6.03 – Employment Categories**

**ARP 6.35 – Non-tenure Track Faculty Appointments**

**ARP 9.20 – [Pre-AY 18/19] Faculty Performance Evaluation**

**ARP 9.23 – [Pre-AY 18/19] Faculty Promotion and Tenure – Guiding Principles**

**ARP 9.24 – [Pre-AY 18/19] Faculty Promotion and Tenure – Criteria**

**ARP 9.25 – [Pre-AY 18/19] Faculty Promotion and Tenure – Policies**

**ARP 9.36 – Faculty Post Tenure Review**

**Combined P & T Rules Through 08/12/2018 (PDF)**

**Combined P & T Rules After 08/12/2018 (PDF)**

**Revision History:**
2017 Recompilation, formerly Rule 5.90.2
07/15/2008 Amendments ratified by Board of Regents, with 08/01/2008 effective date

---

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 9.23 – [Pre-AY 18/19] Faculty Promotion and Tenure – Guiding Principles

arp.nmsu.edu/9-23

**(fka 5.90.3)**

The following guiding principles are critical underpinnings to the promotion and tenure process at NMSU.

## PART 1: FACULTY PARTICIPATION (fka 5.90.3.1)

The selection and retention of faculty members are of utmost importance to the quality of the university, the achievement of university goals, and the future of the institution. In order to ensure a fair process for recognition of excellent faculty, it shall be the policy of the university to allow faculty members to vote on the promotion or tenure of departmental colleagues, exercising collegial judgment based on an established set of criteria.

## PART 2 TRANSPARENCY OF PROCESS (fka 5.90.3.2)

A. **Access to Promotion and Tenure Policies/University Posting**: For faculty members to trust the promotion and tenure process, they need to have a clear idea of what is expected of them, how they will be evaluated, and the rules of the process. To this end, the university website will include a specific link to the university-wide promotion and tenure rules and procedures, professional ethics related to promotion and tenure, the appeals process, and links to college**,** department, or division policy statements.
B. **Departmental and Principal Unit Postings**
    1. To promote the transparency of the process, each principal unit shall post on its website its written policy document aligned with the Guiding Principles, Criteria, and Policies outlined in these rules and procedures.
    2. Websites will also contain links to the university's promotion and

tenure documents, as well as to each of the department websites.

3. In addition, each department shall post on its website its current statement of goals, objectives, and expectations as these relate to promotion and tenure (sometimes called a functions and criteria statement). These shall be agreed upon by the faculty in each department and approved by the responsible dean or comparable administrator.

C. **Policies to be Provided to Eligible Faculty**: A written copy of promotion and tenure policies will be given to all tenure-track, tenured, college and research faculty who are eligible for consideration for promotion or tenure. (See **Combined P & T Rules Through 08/12/2018** or **Combined P & T Rules After 8/12/2018**)

D. **Conflict of Interest (fka 5.90.3.2.1)**: (*See* **RPM 3.00 Conflicts of Interest – Ethical Conduct** and **ARP 3.13 Conflicts of Interest Arising from Consensual Relationships**)

## PART 3: PERFORMANCE EVALUATION (fka 5.90.3.3)

The annual performance evaluation is a component of the promotion and tenure process. This multi-layered evaluation system relies on consistency at each level of review. The performance of each faculty member, including college faculty, will be reviewed at least once a year. The performance evaluation provides documentation of expectations and a record of faculty performance relative to stated expectations. The form of the evaluation is determined by the college or community college and shall align with promotion and tenure expectations. (*See* **ARP 9.25** Part 1 Performance Evaluations and **ARP 9.36 – [Pre- AY 18/19] Post-Tenure Review**)

## PART 4: ALLOCATION OF EFFORT (fka 5.90.3.4)

A. **Service to Mission**: The amount of effort that faculty members regardless of rank or position devote to the various aspects of their duties necessarily varies, and any fair promotion and tenure process will recognize these variations. A successful process considers whether the faculty member is effectively serving the mission of the university, as defined by a department's criteria and the individual's agreed upon goals and objectives. This means, for example, that the efforts of a faculty member made in response to administrators or committees are taken into account during promotion and tenure evaluation and are not discredited.

B. **Fairness Despite Variance in Duties**: One faculty member may devote more time to teaching at one point than at another. The efforts of two faculty members may vary at the same points in their careers according to their particular strengths and department needs. Faculty assignments in different departments will also vary. It is fundamentally unfair, for example, to expect the same amount of scholarship and creative activity, service, extension, or outreach from a faculty member teaching one class a semester as from another faculty member teaching three classes a semester or several large lecture classes.
C. **Equitable Treatment**: In order to ensure equitable treatment, every faculty member will complete an allocation of effort statement as part of the annual evaluation process. (*See also* **ARP 6.61 Faculty Assignments – Teaching Load**) When determining the allocation of effort, decisions must be made without regard to race, national origin, gender, gender identity, age, disability, political beliefs, religion, marital status, sexual orientation, special friendships, or animus towards candidates. Further, for the allocation of effort statement to be accurate and useful, administrators at all levels must understand and take an active role in avoiding institutional factors that could produce an undue burden on untenured faculty members and those from underrepresented groups in the allocation of effort process.
D. **Use of Allocation of Effort Statement**: Each college shall develop and use an allocation of effort statement as specified in **ARP 9.25** Part 1 Performance Evaluations. These statements shall be a part of the faculty member's tenure and/or promotion portfolio, and all aspects of the agreed upon efforts shall be factored into the recommendation made at each step of the process.

## PART 5: THE PROFESSORIAL RANKS (fka 5.90.3.5)

A. **Instructor**
    1. Demonstrates expertise within their discipline through practical, applied, and/or related experience.
    2. Individuals new to this rank may not have demonstrated ability to conduct independent scholarship and creative activity, but there must be substantive evidence of likely success at university teaching or its equivalent.
    3. Instructors may be working toward a terminal degree.
    4. An instructor's job description primarily relates to teaching or its equivalent and usually does not include scholarship and creative

activity.

5. An instructor is not eligible for tenure, except at the community colleges.

B. **College Faculty**: A person holding a college faculty appointment is eligible for advancement in rank but not eligible for tenure.

C. **Assistant Professor**

1. Normally holds the highest terminal degree in their field of expertise.
2. Outstanding experience and recognition in a professional field may be considered the equivalent of the terminal degree.
3. An assistant professor is expected to have a thorough command of the subject matter of some segment of the discipline, in addition to a comprehension of the whole.
4. Assistant professors are tenure-track faculty members hired on a yearly, renewable contract for a maximum of seven years.
5. During the sixth year, assistant professors typically are evaluated for promotion and tenure simultaneously, having submitted their portfolio at the beginning of that year.
6. However, an assistant professor may elect to apply for tenure or promotion at any time with the written approval of department head and dean or their equivalents.
7. The application for tenure may occur only one time.

D. **Associate Professor**

1. An associate professor is often a mid-career faculty member who has been awarded tenure.
2. If a faculty member is initially employed at the rank of associate professor without tenure, the probationary period may vary depending upon agreements stipulated in writing at the time of initial hire.
3. Once tenured, associate professors may hold this rank indefinitely or apply for promotion.
4. Promotion to professor should not be considered to be forthcoming merely because of years of service to the university, or because tenure has previously been awarded.
5. In accordance with the principal unit's timelines, a faculty member may present a promotion portfolio in any given year.
6. An associate professor must demonstrate competence, continuous progress, and maturity over a large part of the academic field.
7. It is expected that evidence showing high quality of teaching and scholarship and creative activity has been provided and is current.

E. **Professor**

1. A professor, sometimes referred to as a "full professor," has

established disciplinary, intellectual, and institutional leadership.
2. The professor demonstrates command and a mature view of the disciplinary field as evidenced by teaching and advising (or its equivalent) or similar experience, scholarship and creative activity, service, extension, or outreach.
3. Faculty members initially hired at the rank of professor are often given tenure on appointment.

## PART 6: FLEXIBILITY IN TENURE-TRACK (fka 5.90.3.6)

Normally, before being considered for tenure, eligible faculty members serve six consecutive probationary years. The probationary period begins with the first year of the contract. Note that according to **ARP 6.30** C. 3., "New tenure-track faculty reporting for duty after the last Friday in September (12-month employees) or the second Friday in October (9-month employees) will not receive a temporary contract…." The first contract will be issued at the beginning of the next contract period, which will constitute the first year of the probationary period toward tenure. During the sixth year, a case for tenure and/or promotion is made by the faculty member and considered by the university. Those achieving tenure are awarded a continuous contract at the end of their sixth year, while those not awarded tenure are given a one-year terminal contract for their seventh and final year of employment at NMSU. There may be exceptions, however, to shorten or lengthen the normal six-year probationary period.

### A. Credit for Prior Service (fka 5.90.3.6.1)

1. Faculty members with previous teaching and advising (or its equivalent), service, extension, outreach, scholarly, and/or administrative experience at another institution may have some or all of that experience taken into consideration on appointment at NMSU.
2. With executive vice-president and provost approval, and particularly when tenure has been granted to a candidate at another institution, tenure may be accorded at the time of initial appointment to the university.
3. Prior probationary service at another institution may count towards the six-year probationary period at NMSU, but usually only up to a maximum of three years.
4. Any expedited schedule must be recommended by the department head and dean and agreed to by both the executive vice-president and provost and the faculty member at the time of appointment.
5. The details of such credit for prior service, the resulting length of the probationary period, the timing of any third-year review, and the period for

the tenure application process, shall all be stated unambiguously in the appointment letter.

## B. Extension of the Probationary Period (fka 5.90.3.6.2)

When requested in writing within one year of the qualifying event by the faculty member, leaves of absence can lead to postponement of the tenure decision date; however, modifications in that date require the recommendation of the department head and dean and the approval of the executive vice-president and provost. Faculty responsibilities may be negotiated when the extension is requested. An extension may be granted up to two times, so long as the total pre-tenure probationary period does not exceed eight years. Exceptions to this limit can be made under extraordinary circumstances if approved by the executive vice-president and provost. Candidates must be held to the same standards of performance when the probationary period has been extended as candidates whose probationary period was not extended. The probationary period may be extended, upon written request, under the following circumstances:

1. **Leave of Absence without Pay**: Probationary faculty members may request in writing a leave of absence without pay, usually not to exceed one academic or fiscal year. Prior to initiating the leave, affected faculty may request in writing a probation extension of one year.
2. **Military Leave of Absence**: Involuntary induction into the armed forces entitles the faculty member to a leave of absence to cover the term of military service. Such leave constitutes valid grounds for requesting an extension of the tenure decision date. Similarly, a faculty member's voluntary participation in a military reserve program may lead to periodic or prolonged absence sufficient to affect the faculty member's performance (*e.g.*, annual active duty training, or active duty training or participation when a reserve unit is called to active duty) that constitutes valid grounds for extension of the tenure decision date.
3. **Medical Leave of Absence**: Probationary faculty members with a serious personal illness or providing prolonged, substantive care for a chronically ill family member may request in writing an extension of the tenure decision date, usually for one year.
4. **Family Leave of Absence or Exceptional Family Responsibilities**: Upon written request, probationary faculty members who become parents will receive a one-year automatic extension of the tenure decision date. Such an extension does not require that the faculty member take a leave of absence.
5. **Catastrophic Events**: Probationary faculty who have experienced a

catastrophic event such as a fire or flood or who must aid family members in such situations may request in writing an extension of the tenure decision date.

6. **Jury Duty**: Prolonged jury service, when significantly affecting a faculty member's performance, constitutes a valid reason to petition for extension of the tenure decision date.
7. **Other, as Negotiated**:Extensions for other reasons may be negotiated.

## C. Reduction of the Probationary Period (fka 5.90.3.6.3)

1. **Tenure Upon Initial NMSU Appointment**: Faculty members who have worked in a teaching and advising (or its equivalent), service, extension, scholarly, and/or administrative role at another institution may have some or all of that work taken into consideration on appointment at NMSU. With executive vice-president and provost approval, and particularly when tenure has been granted to a candidate at another institution, tenure may be accorded at the time of initial appointment to the university.
2. **Expedited Tenure Schedule**: Prior probationary service at another institution may count towards the six-year probationary period at NMSU, but usually only up to a maximum of three years. Any expedited schedule must be recommended by the department head and dean and agreed to by both the executive vice-president and provost and the faculty member at the time of appointment. The details of such credit for prior service, the resulting length of the probationary period, the timing of any third-year review, and the period for the tenure application process, shall all be stated unambiguously in the appointment letter. In such instances, no extension of the probationary period will be granted unless the request falls in one of the categories mentioned in in subsection B. above, Extension of the Probationary Period.
3. **Committee, Department Head and Dean Supported Appeal for Early Tenure Review**: Current faculty may request the length of the probationary period be shortened. Such an appeal requires the written request of the faculty member, positive recommendations of the department promotion and tenure committee as determined in the spring review, department head, and dean. If this tenure application is not successful, the candidate's contract is not renewed according to the provisions of Rule **ARP 9.43**.

## D. Part-Time Faculty and Tenure (fka 5.90.3.6.4)

1. **Retention of Tenure Upon Move from Full Time to Part Time**: Tenured, full-time faculty members who move to part-time status may retain tenure.

a. Retention of tenure in such a case requires the written request of the faculty member, positive recommendations of the department head and dean, and approval of the executive vice-president and provost.
b. While this rule encourages departments to accommodate reasonable requests for part-time appointment, part-time appointments are not an entitlement, and requests may be turned down.
c. Pending availability of funding and the approval of the department head, dean and executive vice-president and provost, the faculty member may return later to full-time tenured status. (*See* subsection 4. below)

2. **Procedural Guidelines**
   a. When a full-time, tenure-track position becomes part time, the time in rank is prorated based on full-time equivalent (FTE).
   b. As with full-time faculty, the maximum probationary period for part-time faculty members is the equivalent of six FTE years, with the tenure decision to be made before the end of the six full-time years of service. For example, a tenure-track candidate with a 0.50 FTE appointment must apply for tenure at the end of the 11th year.
   c. Part-time tenure-track faculty must be held to the same standards of performance relative to FTE as full-time faculty.
   d. If denied tenure, a faculty member on part-time appointment has only one year of continued part-time employment beyond the denial.
3. **Regular Part Time Appointment Defined**: Faculty members whose regular appointments are less than 0.50 FTE do not accumulate probationary time toward tenure.
4. **Return from Part Time to Full Time**: When recurring state funding is available, a tenure-track, part-time faculty member may apply for a full-time tenure track position and, if hired, apply earned tenure-track FTE from prior years toward tenure and promotion in the full-time position.

## E. Joint Appointment (with Dual Primary Responsibilities (fka 5.90.3.6.5)

In appropriate circumstances, a faculty member may be appointed in two departments or colleges. The faculty member with a joint appointment has a memorandum of understanding from all involved units. The memorandum of understanding stipulates the expected workload and allocation of effort distributed between the two departments; identifies the principal unit where tenure resides or will reside if applicable; defines the responsibilities of the faculty member in each unit; and indicates the term of appointment. The memorandum must explain the process for performance and promotion and tenure reviews, renewal of the joint appointment, and salary increases. Each unit

must provide recommendations in annual, probationary, tenure, and promotion reviews. In joint appointments with centers or institutes, the tenure home must reside in a principal unit. In joint appointments with two or more academic units, one unit must be designated, by mutual agreement, as the tenure home.

## PART 7: MID-PROBATIONARY REVIEW (fka 5.90.3.7)

Tenure-track faculty members may request a formal mid-probationary review by those principal units that make such an option available. The mid-probationary review is an optional opportunity to obtain feedback on the tenure-track faculty member's performance and is used to identify specific activities to enhance the candidate's progress toward promotion and tenure. The review is formative, intended to assist tenure-track faculty in achieving promotion and tenure and should take into account the allocation of work effort during the three years reviewed and be based upon the principal unit's criteria. The outcome must not be used as a determinant for setting merit pay or for contract continuation decisions. Principal units should see **ARP 9.25** Part 4 for additional information

## PART 8: COMMUNITY COLLEGES, LIBRARY, AND COLLEGE FACULTY (fka 5.90.3.8)

The community colleges (other than Doña Ana Community College, whose division committees function as department committees), and the library faculty should begin their promotion and tenure deliberations with a committee that acts as a college-level committee. Specific variations are described below.

A. **Community Colleges (fka 5.90.3.8.1)**
   1. **Mission and Corresponding Emphasis in Evaluation Process**: The mission of NMSU's community colleges is to provide open access to quality education and support economic and cultural life in prescribed service areas. Community colleges provide traditional liberal arts education, vocational and technical training, contract training, community interest classes, and developmental education. Every effort is made to keep programs and curricula flexible, in order to accommodate varied and expanding community educational needs. Since the community college's primary role is the dissemination of information, more emphasis is placed on teaching and advising (or its equivalent), in the evaluation process.
   2. **Tenure Committees**: Due to their size, the organizational structure

for tenure review at the Alamogordo, Carlsbad, and Grants campuses consists of a tenure committee at each campus that evaluates and makes recommendations to the campus executive officer.

B. **The Library (fka 5.90.3.8.2)**: The NMSU library faculty is expected to meet university requirements for academic appointment and promotion and tenure considerations. For these purposes, the category of librarianship is equivalent to the teaching and advising category. The NMSU Library places the highest value on the element of librarianship. Librarianship includes, but is not limited to the organization of knowledge, the understanding and use of technology as it relates to the information field, teaching, library management, service delivery, and building collections.
C. **College Faculty (fka 5.90.3.8.3)**: College faculty may hold ranks as described in Part 5, the Professorial Ranks, above and are eligible for promotion. A college faculty position can be converted to a tenure-track position when sufficient recurring funds are available and a national search is conducted. In relation to the promotion of college faculty, an understanding of the following guiding principles is necessary:
    1. **Criteria for Promotion**: College Faculty should be evaluated for promotion based on the allocation of their effort to the areas of teaching and advising, service, scholarship and creative activity, or extension and outreach, service, and the relative mix of these duties.
    2. **Development of Promotion Procedures**: Colleges must develop specific promotion procedures for their college faculty. The protections for College Faculty are the same as those given tenure-track faculty and tenure faculty in **ARP 9.25** Parts 1, 4, and 8.
    3. **Representation on Committee**: Committees for promotion of college faculty must include college faculty representation.
    4. **Appropriate Standards for Promotion**: The different role played by college faculty should be recognized in the promotion process, and the standard for promotion should be appropriate given the role of college faculty.

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 9 | HR - Performance Evaluation, Promotion and Tenure

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 08/01/2008

## Related

**Cross-Reference:**
**RPM 3.00 - Conflict of Interest-Ethical Conduct**

**ARP 3.13 – Conflicts of Interest Arising from Consensual Relationships**

**ARP 6.30 - Tenure Track Faculty Appointment**

**ARP 6.61 - Assignments - Teaching Load**

**ARP 9.25 – [Pre-AY 18/19] Faculty Promotion and Tenure – Policies**

**ARP 9.36 - Faculty Post Tenure Review**

**ARP 9.43 - Tenure Track Faculty - Process for Non-Renewal of Annual Contract**

**Combined P & T Rules Through 08/12/2018 (PDF)**

**Combined P & T Rules After 08/12/2018 (PDF)**

**Revision History:**
2017 Recompilation, formerly Rule 5.90.3
07/15/2008 Amendments ratified by Board of Regents, with 08/01/2008 effective date

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 9.24 – [Pre-AY 18/19] Faculty Promotion and Tenure – Criteria

arp.nmsu.edu/9-24

**(fka 5.90.4)**

When considering applicants for promotion and tenure, serious attention will be given to performances in the applicable areas of teaching and advising (or its equivalent), scholarship and creative activity, service, extension and outreach, and where applicable, leadership. The relative importance of each of these areas varies according to the cumulative allocation of effort statements. Each area is vital to the university's ability to achieve its mission, and the performance of a faculty member will be viewed as an indication of future contributions.

## PART 1: TEACHING AND ADVISING (fka 5.90.4.1)

A. **Elements of Teaching as Essential Criterion**: Teaching is central to NMSU's mission. For those who teach, effectiveness in teaching and advising is an essential criterion for tenure and for advancement in rank. The teaching and advising category includes all forms of university-level instructional activity, as well as advising undergraduate and graduate students, both within and outside the university community. Such activities are commonly characterized by the dissemination of knowledge within a faculty member's area of expertise; skill in stimulating students to think critically and to apply knowledge to human problems; the integration and application of relevant domestic and international, social, political, economic, and ethical implications into class content; the preparation of students for careers in specific fields of study; and the creation and supervision of appropriate field or clinical practicum's.
B. **Responsibilities of Teaching and Advising**: Teaching and advising responsibilities may include, but are not limited to, preparation for and teaching of a variety of courses, seminars, and other academic learning experiences; non-credit workshops and informal instructional activities; course and program development; team or collaborative teaching; web-based instruction, both on and off campus; supervision of student

research, performances, or productions; service on graduate student program and research committees; field supervision and administration of field or clinical experiences; production of course materials, textbooks, web pages and other electronic aids to learning; and others.

C. **Forms of Faculty Advising**: Faculty advising may take the form of assisting undergraduate or graduate students in the selection of courses or careers, assisting learners in educational programs on and off campus, mentoring students, serving as faculty adviser to student groups, research and teaching advising, as well as other forms.

D. **Evaluation of Teaching (fka 5.90.4.1.1)**:
    1. **Evidence By Which Teaching Effectiveness is Assessed**: Teaching is a complex and multifaceted activity. Therefore, several forms of evidence should be used to assess comprehensively teaching effectiveness. Each form of evidence should carry a weight appropriate to its importance in evaluating teaching.Such documentation must demonstrate command of subject matter, continuous growth, and development in the subject field, the ability to organize material and convey it effectively to students, assessment of student learning, revision and updates of curricula, and the integration of scholarship (for faculty who produce scholarship) and service with teaching. Materials appropriate for evaluating teaching should include: (a) evidence from the instructor, (b) evidence from other professionals, (c) evidence from students, and (d) evidence of student learning.
    2. **Principal Units To Develop Guidelines**: Each principal unit is to create clear guidelines for its teaching faculty that define teaching responsibilities and specify required evidence documenting teaching effectiveness.Specific data to be included in the evaluation packet will be determined by each principal unit.

E. **Evaluation of Advising (fka 5.90.4.1.2)**: For promotion and tenure considerations, performance in such activities must be documented and evaluated. Each principal unit is to create clear guidelines regarding the responsibilities and documentation requirements for its faculty who advise.

## PART 2: SCHOLARSHIP AND CREATIVE ACTIVITY (fka 5.90.4.2)

A. **Rationale**: Scholarship and creative activity involves discovering and creating, teaching and disseminating, and applying knowledge and skills to worldly concerns. This understanding is grounded in Boyer's concept of the

four scholarships: (1) the scholarship of discovery involves processes, outcomes, and the passionate commitment of the professoriate and others in the university to disciplined inquiry and exploration in the development of knowledge and skills; (2) the scholarship of teaching involves dynamic, reciprocal, and critically reflective processes among teachers and learners at the university and in the community in which their activity and interaction enriches and transforms knowledge and skills, taught and learned; (3) the scholarship of engagement refers to the many and varied ways to responsibly offer and employ knowledge and skills to matters of consequence to the university and the community; and (4) the scholarship of integration is the process by which knowledge and skills are assessed, interpreted, and applied in new and creative ways to produce new, richer, and more comprehensive, insights, understanding, and outcomes.

B. **NMSU Definition of Scholarship and Creative Activity**: Scholarship and creative activity is both activity and product, employing dynamically interacting processes of discovery and creation, teaching and dissemination, engagement and application, and integration, in the pursuit of fulfilling the mission and vision of NMSU. Products developed through these processes, are public, open to peer review, and available for use by others. Scholarship and creative activity can take many forms, including but not limited to refereed publications. At NMSU's community colleges, scholarship and creative activity includes scholarship that is also evidenced by professional development activities that disseminate knowledge to the college's learning communities.
C. **Acknowledgement of Land Grant Mission**: This definition reflects the university's mission as the state's land-grant university, serving the needs of New Mexico's diverse population through comprehensive programs of teaching and advising, scholarship and creative activity, extension and outreach, and service. It addresses the breadth and diversity of scholarly and creative activity among faculty, staff, and students through which this mission is fulfilled.
D. **Use of Technology is a Factor in Evaluation Categories**: The dissemination and creation of scholarly work using technology is becoming increasingly important. Accordingly, it is important that promotion and tenure committees recognize this when evaluating a candidate's portfolio. The rapid pace at which technology changes makes it difficult to use a single set of evaluation criteria to fit all cases encountered. Technology often crosses the rigid boundaries of teaching and advising, scholarship and creative activity, service, extension, and outreach, and as such, it must be evaluated in as many of these categories as appropriate. Flexibility in evaluation of the candidate's technology efforts is paramount. Reviewers

must be aware of expectations placed on the candidate at the time of hiring and during annual reviews and are encouraged to evaluate technology-based scholarship and creative activity using appropriate criteria.

E. **Evaluation of Scholarship and Creative Activity (fka: 5.90.4.2.1)**: All scholarly activity and outcomes, regardless of funding source, must consider the following criteria adapted from Diamond:
    1. The activity's purposes, goals, and objectives are clear. The objectives are realistic and achievable. It addresses important questions in the field.
    2. The activity reveals a high level of discipline-related expertise. The scholar brings to the activity a high level of relevant knowledge, skills, artistry, and reflective understanding.
    3. Appropriate methods are used for the activity, including principles of honesty, integrity, and the methods have been chosen wisely, and applied effectively. It allows for replication or elaboration.
    4. The activity achieves its goals and its outcomes have significant impact. It adds consequentially to the field. It breaks new ground or is innovative. It leads to further exploration or new avenues for exploration for the scholar and for others.
    5. The activity and outcomes have been presented appropriately and effectively to its various audiences.
    6. The activity and outcomes are judged meritorious and significant by one's peers.
    7. The scholar has critically evaluated the activity and outcomes and has assessed the impact and implications on the greater community, the community of scholars and on one's own work. The scholar uses this assessment to improve, extend, revise, and integrate subsequent work.

## PART 3: EXTENSION AND OUTREACH (fka 5.90.4.3)

Extension and outreach are essential to the university's mission because they disseminate information to the public; help the state by promoting economic development through the dissemination of new technologies and best practices; and serve as a basis for sustainable, community-oriented, informal education that addresses local needs through faculty affiliated with each county government in New Mexico. The central role of extension and outreach is recognized in that

several principal units are dedicated to these functions. There are also numerous faculty members in other units for whom extension and outreach are major components of their duties.

## A. Evaluation of Extension and Outreach (fka 5.90.4.3.1)

1. **Collaborative Effort:** Extension and outreach work is collaborative by nature. Faculty should provide evidence of collaboration with whomever necessary to identify local needs, garner resources, discover and adapt new knowledge, design and deliver programs, assess clientele skill changes, and communicate program results. Collaborative effort should also include networking with other university faculty in identified areas of program discovery, development, and delivery, including applications to teaching and advising where appropriate.
2. **Evaluation Guidelines**: To evaluate extension and outreach scholarship the following guidelines are recommended:
    a. Faculty must provide evidence of extension and outreach scholarship in order that these [collaborative] efforts are recognized.
    b. **The documentation should provide evidence that the work is:**
        i. creative and intellectual;
        ii. validated by peers;
        iii. communicated to stakeholders; and
        iv. have an impact on stakeholders and the region.
    c. **Components of extension scholarship include**:
        i. developing programs based on locally identified needs, concerns, and/or issues; targeting specific audiences;
        ii. setting goals and objectives for the program;
        iii. reviewing current literature and/or research for the program;
        iv. planning appropriate program delivery;
        v. documenting changes in clientele knowledge, behaviors, attitudes, and/or skills;
        vi. conducting a reflective critique and/or evaluation of the program;
        vii. validation of the program by peers and/or stakeholders; and
        viii. communication of results to stakeholders and decision makers.

## PART 4: SERVICE (fka 5.90.4.4)

Service is an essential component of the university's mission and requires that the faculty member contribute to the organization and development of the university, as well as provide service to any local, state, national, or international

agency, organization, or institution needing the faculty member's professional knowledge and skills.

A. **Evaluation of Service (fka 5.90.4.4.1)**:The type and amount of service that a faculty member performs should be determined in consultation with the appropriate administrator(s). All relevant activities in which a faculty member participates should receive appropriate consideration for promotion and tenure decisions. Service contributions should be evaluated based on how they are applied and how they draw upon the professional expertise of the faculty member.

## PART 5: LEADERSHIP (fka 5.90.4.5)

In demonstrating leadership, candidates must show that they are having an impact as evidenced by the candidate's scholarship and creative activity, and by contributions to the advancement of the university which may include administrative roles in which considerable and well-documented contributions to the university have been made.

A. **Evaluation of Leadership (fka 5.90.4.5.1)**: Leadership is characterized by: (1) contribution to the mission of the college or university and to the faculty member's profession; (2) participation in the distribution of responsibility among the members of a group; (3) empowering and mentoring group members; and (4) aiding the group's decision-making process.

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 9 | HR - Performance Evaluation, Promotion and Tenure

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 07/01/2010

## Related

**Cross-Reference:**
**Combined P & T Rules Through 08/12/2018 (PDF)**

**Combined P & T Rules After 08/12/2018 (PDF)**

**Revision History:**
2017 Recompilation, formerly Rule 5.90.4
05/07/2010 Amendment ratified by Board of Regents, with 07/01/2010 effective date
07/15/2008 Amendments ratified by Board of Regents, with 08/01/2008 effective date

---

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 9.25 – [Pre-AY 18/19] Faculty Promotion and Tenure – Policies

arp.nmsu.edu/9-25

**(fka 5.90.5)**

## PART 1: ANNUAL PERFORMANCE EVALUATION AND THE PROMOTION AND TENURE PROCESS (fka 5.90.5.1)

### A. Performance Evaluation Policies (fka **5.90.5.1.1)**

Performance evaluation policies in the principal units shall include the following elements:

1. A statement that Performance Evaluations are conducted annually.
2. A timeline consistent with the timeline for promotion and for tenure as described in Part 9 of the rule below.
3. The requirement that a department head or comparable administrator annually meet with all faculty members regarding progress toward promotion and tenure, the recording of objectives and goals, and the department faculty evaluation format.
4. An opportunity for the faculty member to submit a written statement in response to annual performance evaluations.
5. A procedure for transmitting the performance evaluation, along with any supporting material, from the faculty member to the faculty member's department head
6. A procedure for transmitting a written copy of the department head's or comparable administrator's review to the individual being reviewed and to the dean or equivalent administrator.
7. A procedure to certify in writing to the appropriate dean or comparable administrator that a meeting with each faculty member has occurred.

### B. Performance Evaluation Forms (fka **5.90.5.1.2)**

Performance evaluation forms in the principal units shall include the following elements:

1. **Allocation of Effort Statement**
    a. The allocation percentages will be agreed upon by the faculty member and the department head, and will be approved annually by the faculty member's department head and dean. If agreement cannot be reached, the dean or equivalent administrator may assign the allocation of effort, and the faculty member may appeal through existing university procedures. (*See also* **ARP 6.61 Faculty Assignments – Teaching Load**)
    b. The allocation of effort statement and percentages may be altered during the year with the mutual agreement of the faculty member, department head, and dean to reflect changing circumstances, such as service on a particularly time-consuming committee or grant, time for scholarship and creative activity, emergency teaching and advising assignments, etc.
    c. At the minimum, this statement shall contain the following elements:
        1. Percentage of effort devoted to teaching and advising or its equivalent, scholarship and creative activity, service, and extension and outreach. (The total percentage shall be 100%, but any category may be zero percent.)
        2. The number of semester credit hours, student enrollment, and level of courses.
        3. A statement of what the principal unit considers a full teaching and advising load.
        4. If the principal unit utilizes a weighting, ranking, or scoring system, the value assigned to each category must be indicated. The values must be calculated proportionately to a candidate's allocation of effort.
2. Current Position Description
3. **Submission from Faculty Member**: A written section submitted by the faculty member detailing and citing accomplishments in relation to the criteria for promotion and tenure.
4. **Written Review by Department Head or Equivalent**: A written review from the department head or comparable administrator including specific commendations, concerns, and recommendations in each of the areas of performance, as well as separate comments about progress toward promotion and tenure.

# PART 2: IMPLEMENTATION OF THE PROMOTION AND TENURE PROCESS (fka 5.90.5.2)

A. **Requirement for Departmental Promotion and Tenure Committee**: Each department shall have a department promotion and tenure committee except as follows: the University Library, as well as the Alamogordo, Carlsbad, and Grants community colleges, do not use department promotion and tenure committees; rather, promotion and tenure actions in these units begin with the college promotion and tenure committee. In the Doña Ana Community College, a division promotion and tenure committee functions in the same manner as a department committee.

B. **Requirement for Departmental Promotion and Tenure Policy**: Each department shall have a written policy for promotion and for tenure. This policy shall be in accordance with **ARP 9.23 – [Pre- AY 18/19] Faculty Promotion and Tenure: Guiding Principles**, shall include criteria and procedures for promotion and for tenure, and shall be consistent with its college's criteria and procedures for promotion and tenure. The department's criteria and procedures shall be determined collaboratively by the faculty and department head subject to approval by the college dean.

C. **Requirement for College Promotion and Tenure Committee**: Each college shall have an elected College Promotion and Tenure Committee.

D. **Requirement for College Promotion and Tenure Policy**: Each college shall have a written policy for promotion and for tenure. These shall be in accordance with **ARP 9.23 – [Pre- AY 18/19] Faculty Promotion and Tenure: Guiding Principles** and shall include criteria and procedures for promotion and for tenure. The college's criteria and procedures shall be determined collaboratively by the tenure and tenure-track faculty and administration in each college and must be approved by the college dean.

# PART 3: ROLES AND RESPONSIBILITIES DURING THE PROMOTION AND TENURE PROCESS (fka 5.90.5.3)

## A. Candidate

1. Maintains a curriculum vitae and a cumulative personal record of the activities and accomplishments affecting the application for promotion and/or tenure.

2. Reviews the personal portfolio in relation to the criteria for promotion and/or tenure and seeks guidance from senior faculty and the department head.
3. In accordance with college procedures, requests and provides materials required in the mid-probationary period review.
4. Provides the department head with a written list of potential outside references from which letters of evaluation may be requested.
5. Requests extensions of the probationary period in accordance with **ARP 9.23** Part 6.
6. In accordance with Part 6 below, requests that the review process be terminated at any time prior to review by the executive vice-president and provost.

## B. Department Head

1. Establishes and monitors a process for tenure-track faculty to mentor the candidate in developing the best case for promotion and/or tenure.
2. Provides leadership in the collaborative writing and maintenance of department promotion and tenure policy.
3. Provides initial information, timelines, and copies of all written guidelines regarding promotion and tenure expectations and policies to all new and continuing faculty members on a regular basis (See **Combined P & T Rules Through 08/12/2018** or **Combined P & T Rules After 8/12/2018**). Also informs tenure-track faculty of the rights to due process, appeal and informal processes for conflict resolution in promotion and tenure.
4. In the annual performance reviews of tenure-track faculty, includes written details relating to assigned duties (i.e. the teaching and advising (or its equivalent), scholarship and creative activity, service, extension and outreach and apportionment). The reviews also include separate statements addressing progress toward tenure and toward promotion including steps that should be taken to strengthen the faculty member's case.
5. Provides leadership in establishing agreed upon department guidelines for an annual review of tenure-track faculty by the department's promotion and tenure committee. This review is separate from, and independent of, the department head's annual review of each faculty member.
6. Assists tenure-track faculty who have completed five academic semesters or its part-time equivalent in preparing for an optional mid-probationary review.
7. In mitigating circumstances, explores with the candidate the need for a time extension (*See* **ARP 9.23** Part 6). With the approval of the candidate, seeks permission from the dean to extend the probationary period.

8. Provides assistance and guidance to faculty who are applying for promotion/tenure. Reviews the portfolio of applicants and, where needed, makes recommendations for improvement.
9. Sees that the department promotion and tenure committee submits recommendations for tenure and for promotion for all candidates.
10. Writes an independent evaluation/recommendation concerning each candidate's case for promotion and/or tenure in relation to the criteria for promotion and tenure. This recommendation may be in support of or against supporting either promotion or tenure, or both. It should address the strengths and weaknesses, and level and nature of accomplishments of the candidate.
11. Provides candidates, written copies of the recommendation of the department promotion and tenure committee and of the recommendation of the department head. This notification must occur prior to passing the promotion and/or tenure application on to the dean and college promotion and tenure committee.
12. Places the department head's recommendation in the candidate's portfolio.

## C. Department Promotion and Tenure Committee

1. Examines and reads the portfolio of each candidate.
2. Evaluates the candidate according to department promotion and/or tenure standards.
3. Considers the candidate's department assignment and role apportionment as specified in the candidate's position description and Allocation of Effort Forms.
4. Performs an annual review of tenure-track faculty following departmental guidelines and forwards results to department head and dean or equivalent administrator. This review is separate from, and independent of, the department head's annual review of each faculty member.
5. Makes recommendations to the department head pertaining to faculty members who are seeking promotion and/or tenure based on the candidate's portfolio and departmental criteria.
6. Records in each candidate's portfolio the committee's vote totals. (*See* Part 4 below).
7. Places the committee's recommendation in the candidate's portfolio.
8. Participates in the optional mid-probationary review process, providing formative feedback to candidates.

## D. College Promotion and Tenure Committee

1. Examines and reads the portfolio of each candidate, including the

department head's letter.
2. Evaluates the candidate according to department promotion and/or tenure standards.
3. Considers the candidate's department assignment and role apportionment as specified in the candidate's position description and Allocation of Effort forms.
4. Makes recommendations to the dean pertaining to faculty members who are seeking promotion and/or tenure.
5. Records in each candidate's portfolio the committee's vote totals. (*See* Part 4 below).
6. Places the committee's recommendation in the candidate's portfolio.
7. Participates in the optional mid-probationary review process, providing formative feedback to candidates.

## E. Dean, Community College President

1. Ensures that a college-specific promotion and tenure policy is written and periodically revised and that the policy complies with university policy, rules and procedures.
2. **Assures that each department has**:
    a. current promotion and tenure guidelines that comply with college and university policies and include date of version.
    b. a mentoring process for tenure-track faculty.
    c. a system of annual faculty performance evaluations.
3. In consultation with college faculty establishes policy for the constitution of a College Faculty Promotion Committee.
4. Recommends extensions of the probationary period.
5. Provides oversight for the optional mid-probationary review program.
6. Makes independent recommendations pertaining to promotion and tenure. **To do this, consider**:
    a. Candidate's portfolio
    b. Recommendations of the department promotion and tenure committees
    c. Recommendations of the department heads
    d. Recommendations of the college promotion and tenure committees.
7. Notifies candidates, in writing, of the recommendations of the College Promotion and Tenure Committee and of the dean. This notification must occur prior to passing the promotion and tenure applications and associated recommendations on to the executive vice-president and provost.
8. Places the dean's recommendation in the candidate's portfolio.
9. Meets with the executive vice-president and provost regarding promotion

and tenure cases.

## F. Executive Vice-President and Provost

1. Ensures that each college and each department has, and periodically updates, promotion and tenure policies that comply with university policy, rules and procedures.
2. Approves requests to extend the probationary period.
3. Meets with deans regarding promotion and tenure cases.
4. Makes an independent decision pertaining to promotion and tenure. **To do this, consider**:
    a. Candidate's portfolio
    b. Recommendations of the department promotion and tenure committees
    c. Recommendations of the department heads
    d. Recommendations of the college promotion and tenure committees
    e. Recommendations of the dean.
5. Passes promotion and tenure decisions on to the Chancellor.
6. Notifies candidates in writing of the decision.
7. Provides for annual training sessions for promotion and tenure committee members, department heads, and deans.

# PART 4: COMMON ELEMENTS TO BE INCLUDED IN THE PRINCIPAL UNITS' PROMOTION AND TENURE POLICIES (fka 5.90.5.4)

A. A statement that university policies regarding promotion and tenure supersede department and college policies.
B. Statements referencing the criteria for promotion and tenure as stated in **ARP 9.24 – [Pre-AY 18/19] Faculty Promotion and Tenure – Criteria** .
C. A provision permitting a candidate to temporarily suspend the promotion and tenure time process in accordance with **ARP 9.23** Part 6.
D. A statement regarding confidentiality of records and all committee procedures, including the manner in which confidentiality is ensured. Exceptions must be clearly indicated.
E. A method to review and update at least every three years the written promotion and tenure policies and procedures of the principal unit. A statement to the effect that if the policy should change during a faculty member's pre-tenure or pre-promotion period, the faculty member may choose one of the policies for evaluation purposes. A procedure for the

faculty member to indicate the preferred criteria must be clearly delineated.

F. A procedure for the conduct of a mid-probationary review, if the college provides this option. Faculty who choose to participate in the review process must submit their portfolio to their department head by mid-January. The portfolio shall be prepared in accordance with Part 5 below and be reviewed by the department promotion and tenure committee, the department head, and the college promotion and tenure committee. The college committee will provide to the department head and candidate a written formative evaluation of progress. The review is conducted in accordance with the principal unit's promotion and tenure policy. (*See* **ARP 9.23** Part 7.)
G. A procedure for electing the college promotion and tenure committee: All tenure and tenure-track faculty are eligible to vote during the election. When colleges choose to include college faculty on this committee, college faculty are eligible to vote for college faculty membership on the college committee.
H. Procedure for selecting members of the department promotion and tenure committee.
I. Definition of eligibility for serving on the promotion and tenure committees. Only tenured faculty members are eligible to vote for tenure and promotion. College-track faculty who serve on the college committee are eligible to vote on promotion of college-track faculty. In instances of promotion, committee members must hold a rank at least equal to the rank for which the candidate is applying.
J. Provisions for term limits if desired for serving on the department promotion and tenure committee.
K. Provisions for term limits for serving on the college promotion and tenure committee are required, except at the Alamogordo, Carlsbad, and Grants community colleges.
L. The provision that in no case will a promotion and tenure committee be comprised of fewer than three eligible members.
M. A provision for addressing cases where there are inadequate numbers of eligible faculty to constitute a committee. The department and/or the college promotion and tenure committees may have members from outside the department.
N. The provision that the dean, department head, or comparable administrator may meet with the principal units' promotion and tenure committees to discuss procedural matters.
O. The provision that the deliberations and voting of promotion and tenure committees will be conducted in closed session only among committee

members.

P. A method for surveying the committees' recommendations regarding each candidate(s) via secret written ballot. Voting must be in person. Absentia and proxy ballots are not permitted. All vote counts must be recorded.
Q. A method for the principal units' promotion and tenure committees to submit a letter summarizing its recommendations and the numerical vote count on each candidate to the department head and college dean or comparable administrator. **The recommendation must**:
    1. Reflect the majority view.
    2. Contain specific commendations, concerns, and recommendations addressing the department's criteria in each of the areas required for promotion and tenure
    3. Allow for dissenting opinions containing specific commendations, concerns, and recommendations addressing the criteria in each of the areas required for promotion and tenure.
R. A method for informing each candidate in writing of the principal units' recommendations and numerical vote count, the department head's letter, and/or the dean's or comparable administrator's letter.
S. The provision that a candidate may withdraw from further consideration in accordance with Part 6 below.
T. Guidelines for preparing the portfolio. (*See* Part 5 below.) The parties shall refer to the individual college policies for additional guidelines.
U. A mechanism to provide candidates with sample portfolios. If the portfolios of actual persons are used, written permission must be obtained from the owner of the portfolio.
V. A procedure for indicating how and when a candidate may change, add, or delete materials from the portfolio after the portfolio is submitted to the committee for review.
W. A statement regarding the location where the documentation file will be stored and accessed for review.
X. A procedure for indicating how and when evaluators may request additional information. All requests must be made in writing and transmitted to the candidate.
Y. A procedure allowing the candidate to review all items included in the portfolio assembled prior to the review by appropriate committees, administrators, and/or external reviewers.
Z. **A procedure for soliciting external letters which incorporates the following**:
    1. The number of letters shall be solicited for each candidate.
    2. Specifications regarding who is responsible for obtaining the letters and how the letters will be placed into the candidate's portfolio.

3. Specifications regarding how much and what type of material is supplied to reviewers. The department and/or college policies and criteria for tenure and promotion must be provided to reviewers.
4. Specifications regarding the criteria for serving as an external reviewer.
5. **Instructions to reviewers including**:
    a. A request for a brief statement regarding the individual's qualifications for serving as a reviewer.
    b. A request that the reviewer indicate the relationship between the candidate and reviewer.
    c. Notification that the candidate will have an opportunity to read the letter of assessment.
    d. Notification that third parties in the event of an EEOC or other investigation into a tenure or promotion decision may review letters.

AA. A statement addressing the role, if any, of unsolicited letters.
AB. A statement regarding post-tenure review in accordance with the university's **ARP 9.36 – [Pre- AY 18/19] Post-Tenure Review**.
AC. Reference to the appeals process as outlined in **ARP 3.25 – Discrimination, Harassment and Sexual Misconduct on Campus** and **ARP 10.60 Faculty Grievance Review and Resolution**.
AD. Develop a procedure for reviewing the university's Conflict of Interest policies, rules and procedures with the promotion and tenure review committee(s).

## PART 5: PORTFOLIO PREPARATION (fka 5.90.5.5)

In accordance with department and college guidelines, the candidate is responsible for submitting a promotion and tenure portfolio comprised of a core document and documentation file. The college guidelines shall specify the inclusion of the following core document elements in this order. **The combination of items listed at D. through F. shall not exceed 50 pages**:

A. A routing form developed by the college with spaces for the required signatures.
B. A cover sheet indicating the candidate's name, current rank, department and college.
C. Any written documentation generated throughout the promotion and tenure process, including the numerical vote counts of the promotion and tenure committee(s).
D. A table of contents.

E. Candidate's executive summary.
F. A curriculum vitae.
G. Annual performance evaluations for the period under review, including the allocation of effort statements, the goals and objectives forms, written statements submitted by the faculty member as a part of the annual performance evaluations, the supervisor's written comments, and any response made by the candidate to the supervisor's written comments. Numerical rankings, ratings, or vote counts should be removed. (*See also* **ARP 9.23** Part 3 and Part 1 of this rule.)
H. The most recent complete conflict of interest form.
I. Principal units' mission statements.
J. External reviews.
K. **Documentation File (fka 5.90.5.5.1)**
Supplementary materials provided by the candidate related to the areas of faculty activity. This material is not routed beyond the College Promotion and Tenure Committee, but is available for review.
If this is an application for tenure, the candidate is to include evidence of contributions since starting at NMSU, plus evidence from other institutions if credit for prior service is applicable. If this is an application for promotion, then the candidate is to include evidence of contributions since the last promotion or tenure review.

## PART 6: WITHDRAWAL (fka 5.90.5.6)

A. **Voluntary Withdrawal from Consideration**: A candidate may withdraw from consideration at any time prior to the final signature of the executive vice-president and provost. A candidate shall prepare a letter requesting withdrawal from further consideration. The letter shall be transmitted to the dean or comparable administrator. All documents shall be returned to the candidate and nothing relating to the application for promotion and/or tenure shall be placed in the candidate's personnel file.
B. **Withdrawal in Fifth Year of Service**: If the candidate is in the fifth year of service, withdrawal from consideration for tenure must be accompanied by a letter of resignation submitted to the dean or comparable administrator no later than the end of the fifth-year contract period. The resignation shall be effective no later than the end of the sixth-year contract period.

## PART 7: OUTCOMES (fka 5.90.5.7)

A. **For full-time tenure-track candidates**:
   1. If tenure is recommended, the executive vice-president and provost will send a Contract of Employment (Continuous Appointment) Form through the dean or comparable administrator and the department head to the candidate.
   2. If tenure is not recommended, the department head will give a signed Contract Status Form to the candidate for signature acknowledging notification of non-renewal.

B. **For part-time tenure-track candidates, in addition to the provisions for full-time tenure-track candidates**:
   1. If tenure is recommended, it is for the FTE as stated in the initial contract or as negotiated.
   2. If tenure is not recommended, a faculty member has only one year of continued part-time employment beyond the denial.

C. **For all candidates**
   1. If promotion is recommended, the effective date is at the beginning of the ensuing contract year.
   2. If promotion is recommended, it shall be the policy of the university that all promotions shall include a salary increase, irrespective of other salary increases.
   3. In the case of a negative promotion decision, the executive vice-president and provost will inform the candidate in writing.
   4. The executive vice-president and provost is responsible for informing the Chancellor of the recommendations of the department head, college dean, or comparable administrator and the decision of the executive vice-president and provost.
   5. The executive vice-president and provost will prepare an official list of promotion and tenure decisions for distribution to relevant deans, comparable administrators, the vice-president for administration and finance, and the assistant director of human resource services.
   6. Tenure-track faculty members whose probationary contract is not renewed and who have another year before the termination of that contract do not submit a promotion and tenure portfolio during their final year. If the non-renewal is being appealed on the basis of failure to follow procedure or discrimination, then the appellant may complete a packet and have it held in suspension until the grievance is resolved. If the individual is successful in the appeal, the portfolio will be considered by the parties involved in the promotion and tenure process.

## PART 8: APPEALS (fka 5.90.5.8)

(*See* **ARP 3.25 Discrimination, Harassment and Sexual Misconduct on Campus** (for complaints of discrimination); **ARP 10.60 Faculty Grievance Review and Resolution** (for faculty grievances, including violation of policies or procedures); and **ARP 10.50 Faculty Alleged Misconduct Investigation, Discipline and Appeals Processes** (for appeals from disciplinary action, including involuntary termination).

## PART 9: UNIVERSITY TIMELINE FOR PROMOTION AND TENURE (fka 5.90.5.9)

Each college shall determine a timeline for conducting promotion and tenure reviews. The dates indicated here are suggested guidelines as 12-month appointments may require a different time schedule.

A. **Spring**: The department head notifies potential candidate of eligibility for promotion and/or tenure review. Department promotion and tenure committee reviews the portfolio of each faculty member and in accordance with college policies reports to the department head indicating the progress towards promotion and/or tenure as well as the strengths and weaknesses in each of the areas required for promotion and tenure. Department head informs the candidate in writing of the department promotion and/or tenure committee recommendations.
B. **June, July, August**: The candidate with support from the department and college prepares the candidate's portfolio. (*See also* Part 5, Portfolio Preparation, above.)
C. **September**: The candidate provides the completed portfolio to the department head.
   The department head makes the completed portfolio available to the Department Promotion and Tenure Committee. The portfolio can only be amended hereafter in accordance with department and college guidelines.
D. **October**: The Department Promotion and Tenure Committee considers the completed portfolio of the candidate.
E. **October – December**: The college dean or comparable administrator transmits the Department Promotion and Tenure Committee and department head reports and numerical ballot results to the College Promotion and Tenure Committee.
   The College Promotion and Tenure Committee reviews the department head's and the Department Promotion and Tenure Committee's recommendations.
   The College Promotion and Tenure Committee informs the dean or

comparable administrator if a department fails to follow department and/or college procedures.
The College Promotion and Tenure Committee reviews the portfolios of all tenure-track faculty members no later than their sixth year of service unless **ARP 9.23** Part 6 applies.
The College Promotion and Tenure Committee submits a written recommendation on the candidate to the department head, candidate, and dean or comparable administrator in accordance with the college's promotion and tenure policy.

F. **January – February**:The college dean or comparable administrator reviews the candidate's portfolio, makes a recommendation, and informs the candidate in writing of the recommendations of the College Promotion and Tenure Committee and the dean or comparable administrator.
The college dean or comparable administrator transmits to the executive vice-president and provost all recommendations including numerical votes.
G. **March – April**: The college dean or comparable administrator meets with the executive vice-president and provost to review each candidate. The executive vice-president and provost's decision is indicated in writing.
The executive vice-president and provost informs the Chancellor of the recommendations of the department head, college dean, or comparable administrator and the decision of the executive vice-president and provost.
H. **April – May**: Final notifications of decisions are sent through the executive vice-president and provost, dean or comparable administrator, and department head to the candidate.
The executive vice-president and provost prepares an official list of promotion and tenure decisions for distribution to relevant deans, comparable administrators, the vice-president for administration and finance, and the assistant vice president for human resource services.
The dean or comparable administrator notifies the department head, who in turn notifies the faculty member.
I. **July**: Promotion and tenure decisions become effective.

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 9 | HR - Performance Evaluation, Promotion and Tenure

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 08/01/2008

## Related

**Cross-Reference:**

**ARP 3.25 – Discrimination, Harassment and Sexual Misconduct on Campus**

**ARP 6.61 – Assignments – Teaching Load**

**ARP 9.23 – [Pre-AY 18/19] Faculty Promotion and Tenure – Guiding Principles**

**ARP 9.24 – [Pre-AY 18/19] Faculty Promotion and Tenure – Criteria**

**ARP 9.36 – Faculty Post Tenure Review**

**ARP 10.50 – Faculty Alleged Misconduct Investigation, Discipline, and Appeals Processes**

**ARP 10.60 – Faculty Grievance Review and Resolution**

**Combined P & T Rules Through 08/12/2018 (PDF)**

**Combined P & T Rules After 08/12/2018 (PDF)**

**Revision History:**

2017 Recompilation, formerly Rule 5.90.5
07/15/2008 Amendments ratified by Board of Regents, with 08/01/2008 effective date

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 9.30 – [Effective AY 18/19] Overview of Faculty Evaluation, Promotion and Tenure Rules; Definitions; Periodic Rules Review

arp.nmsu.edu/9-30

## PART 1: OVERVIEW OF FACULTY EVALUATION, PROMOTION AND TENURE RULES; DEFINITIONS; PERIODIC RULES REVIEW

This rule, together with Change to ARP 9.31 – 9.36, collectively referred to as the NMSU Rules on Faculty Evaluation, Promotion, and Tenure, establish the rules relating to the faculty annual performance evaluation process, and relating to promotion and/or tenure criteria and procedures for review. These rules clarify the roles and responsibilities of the candidate applying for promotion and/or tenure, as well as the roles and responsibilities of the promotion and tenure committees and academic administrators involved in each review stage. These rules set forth the requirements for the department and college promotion and tenure committees, and the common elements which must be include in their respective promotion and tenure policies. Procedural guidelines, including a suggested timeline for the promotion and tenure review processes are also provided.

For quick reference, a listing of the rules with subparts is provided below:

## ARP 9.30 – [Effective AY 18/19] Overview of Faculty Evaluation, Promotion and Tenure Rules; Definitions; Periodic Rules Review

**Part 1** Overview of NMSU Rules on Faculty Evaluation, Promotion, and Tenure

**Part 2** Glossary of Terms used in NMSU Rules on Faculty Evaluation, Promotion and Tenure (ARP 9.30 – 9.36)

**Part 3** Implementation of 2017 Revised Rules; Coordination amongst Principal Units; Periodic Rules Review

## ARP 9.31 – [Effective AY 18/19] Annual Performance Evaluation – Regular Faculty

**Part 1** Purpose for Annual Performance Evaluation (*See Also* **ARP 9.32** Part 2; **ARP 9.36** Part 2)

**Part 2** Guiding Principles for Annual Performance Evaluation

**Part 3** The Four Areas of Faculty Effort: Teaching and Advising, Scholarship and Creative Activity, Extension and Outreach, and Service

**Part 4** Requirements for Principal Units' Evaluation Policies

**Part 5** Procedural Guidelines for Annual Performance Evaluation

## ARP 9.32 – [Effective AY 18/19] Faculty Promotion and Tenure: Purpose and Guiding Principles

**Part 1** Purpose

**Part 2** Nature of Promotion and Tenure Reviews, Generally *(See Also* **ARP 9.31** Part 2; **ARP 6.61**)

**Part 3** Faculty Participation

**Part 4** Transparency of Process

**Part 5** Avoidance of Conflict of Interest

**Part 6** Statement on Value of Diversity, paired with Non-Discrimination

**Part 7** NMSU Community Colleges

**Part 8** University Library Faculty

**Part 9** College and Research Faculty

## ARP 9.33 – [Effective AY 18/19] Faculty Promotion and Tenure: The Professorial Ranks

**Part 1** Instructor

**Part 2** Assistant Professor

**Part 3** Associate Professor

**Part 4** Professor

## ARP 9.34 – [Effective AY 18/19] Faculty Promotion and Tenure Committees: Common Elements Required in the Principal Unit Policies

**Part 1** Principal Unit Committees

**Part 2** Principal Unit Policies

**Part 3** Common Elements for Principal Units' Promotion and Tenure Policies

## ARP 9.35 – [Effective AY 18/19] Faculty Promotion and Tenure Reviews: Procedural Guidelines and Timeline

**Part 1** Pre-Tenure Probationary Period

**Part 2** Flexibility in Tenure-Track

**Part 3** Mid-Probationary Review

**Part 4** Joint Appointment (With Dual Primary Responsibilities)

**Part 5** Roles and Responsibilities in Promotion or Tenure Reviews

**Part 6** Portfolio Preparation by Candidate

**Part 7** Withdrawal of Portfolio by Candidate from Further Consideration

**Part 8** Outcomes

**Part 9** Right to Seek Redress for Violation of Evaluation, Promotion, or Tenure Rules

**Part 10** Timeline of Procedural Steps for Promotion and Tenure Review Processes

## ARP 9.36 – [Effective AY 18/19] Post-Tenure Review

**Part 1** Purpose

**Part 2** Annual Performance Evaluation (First Level Review)

**Part 3** Second Level Review

**Part 4** Third Level Review

**Part 5** Involuntary Revocation of Tenure/Termination of Employment

# PART 2: GLOSSARY OF TERMS USED IN NMSU RULES ON FACULTY EVALUATION, PROMOTION AND TENURE (ARP 9.30 – 9.36)

A. **Allocation of Effort**: The percentage of effort, agreed upon by the faculty member and department head or supervisor, that the faculty member will devote to each of the major categories of teaching and advising, scholarship and creative activity, service, extension, outreach and other assigned duties. (*See* **ARP 6.61 Faculty Assignments – General** )
B. **Annual Performance Evaluation**: (*See* **ARP 9.31 – [Effective AY 18/19] Annual Performance Evaluation – Regular Faculty**)
C. **College Faculty**: A faculty member on a regular (0.5 FTE or greater) appointment, who is not eligible for tenure, but is eligible for advancement in faculty rank (promotion)**.** (*See* **ARP 6.03 Employment Categories** and **ARP 6.35 – Non-tenure Track Faculty Appointments**)
D. **Core Document**: A document submitted in the Portfolio for promotion or tenure that includes several specific elements: a routing form, cover sheet, table of contents, curriculum vitae, executive summary, department head and dean letters, prior and current Allocation of Effort statements, annual performance evaluations, summary of teaching evaluations, external reviews and, for community colleges, letters of support. (*See* **ARP 9.31 – [Effective AY 18/19] Annual Performance Evaluation – Regular Faculty** and **ARP 9.35** Part 6, "Portfolio Preparation by Candidate").
E. **Department Head**: Department head refers to the academic department head or equivalent supervisor, which may include program coordinator or superintendent, depending upon the unit and as determined by the cognizant dean or community college chief academic officer.
F. **Documentation File**: An organized collection of supplemental documents and other materials that supports, explains, or clarifies the quality and significance of the candidate's work. Administrators and committee members must have access to this file, which is stored by the Principal Unit.
G. **Executive Summary**: A summative report and personal statement by the faculty member that addresses the faculty member's activities in and philosophies regarding teaching and advising, scholarship and creative activity, service, extension and outreach, and other assigned areas.
H. **Extension and Outreach**: Extension involves the process of defining and building relationships between communities and the university to extend university resources and intellectual expertise through coalition building,

non-formal educational programs, and applied research designed to address locally identified needs. Outreach involves an organized and planned program of activities which are offered to representative groups of citizens of New Mexico and the nation or internationally; these activities bring the resources of the university to bear in a coherent and strategic fashion for the benefit of the receiving entity.

I. **External Reviewer**: A person from outside NMSU who writes a letter of evaluation of a candidate's Portfolio. (*See* **ARP 9.34**, Part 3.AA; **ARP 9.35**, Part 5.B.9.)
J. **NMSU Rules on Faculty Evaluation, Promotion, and Tenure**: Rules ARP 9.30 – 9.36 are collectively referred to as the NMSU Rules on Faculty Evaluation, Promotion, and Tenure.
K. **Four Areas of Faculty Effort**: As used in this rule and the other rules governing promotion and tenure at NMSU, the Four Areas of Faculty Effort refers to: teaching and advising, scholarship and creative activity, extension and outreach, and service. (*See* **ARP 9.31**, Part 3)
L. **Joint Appointment**: A faculty line shared between two departments or colleges; the appointee enjoys all the privileges and incurs all the responsibilities normally given in each area.
M. **Letters of Support**: Letters submitted to support a candidate's application for promotion or tenure that are distinct from external reviews (*See* Definition I. above), but serve a similar purpose at the community colleges. (*See* **ARP 9.34**, Part 3.AA.6.; **ARP 9.35**, Part 10.C.)
N. **Mid-Probationary Review**: A formal, non-mandatory mid-term assessment requested by a Tenure-Track Faculty member of their professional development and progress toward tenure. The Mid-Probationary Review is in addition to the annual performance evaluation.
O. **NMSU Rules on Faculty Evaluation, Promotion, and Tenure**: ARP 9.30 – 9.36 of the Administrative Rules and Procedures of NMSU posted at **arp.nmsu.edu**.
P. **Peer Evaluation**: Assessment of teaching style, content, and effectiveness gained through observation by colleagues; the observations may come in such forms as classroom visits, participation in web-based courses, review of videotaped teaching, or reviews of course materials collected/created by the faculty member being reviewed.
Q. **Performance Evaluation**: An annual report prepared by the faculty member documenting activities in the areas of teaching and advising, scholarship and creative activity, extension and outreach, service, and other assigned areas. The department head provides the faculty member with a written appraisal of the faculty member's performance.
R. **Portfolio**: Consists of the Core Document and Documentation File that

supports the candidate's case for promotion or tenure. A Portfolio is also sometimes referred to as a dossier.

S. **Post-tenure Review**: An annual review designed to identify strengths and weaknesses of the tenured faculty member in the areas of teaching and advising, scholarship and creative activity, service, extension, outreach and other assigned areas. The Performance Evaluation generally serves the above aim; however, if deemed necessary due to deficiencies, a more extensive review may be initiated. (*See* **ARP 9.36 – [Effective AY 18/19] Post-Tenure Review**.)
T. **Principal Uni**t: A tenure home unit responsible for conducting annual faculty performance evaluations and making promotion and tenure recommendations. This definition includes Departments, Colleges, Community Colleges, Cooperative Extension Service, and the University Library, but not centers, clusters, or institutes.
U. **Probationary Period**: The cumulative amount of time spent under term appointments while on the "tenure-track." (*See* **ARP 9.36 – [Effective AY 18/19] Post-Tenure Review**).
V. **Research**: *See* Scholarship
W. **Research Faculty**: A faculty member on a regular (0.5 FTE or greater) appointment, who is not eligible for tenure, but is eligible for promotion among the faculty ranks**.** (*See* **ARP 6.03 Employment Categories** and **ARP 6.35 – Non-tenure Track Faculty Appointments**)
X. **Scholarship**: Both creative activity and product, scholarship includes discovery through original research; integration through synthesizing and reintegration of knowledge; application through professional practice; and teaching through transformation of knowledge. (*See* Boyer, 1990 and **ARP 9.31** Part 3.D. "Scholarship and Creative Activity".)
Y. **Service**: Contribution to the institution and development of the university, as well as provision of service to local, state, national, or international agency or other organization in need of the faculty member's professional expertise.
Z. **Supporting Documents**: Material available to the Promotion and Tenure Committee in the Documentation File that serves to further support, explain, or clarify the Core Document.
AA. **Tenure**: Continuous contract granted after a probationary period to a faculty member candidate that gives protection from dismissal without due process; the primary purpose of tenure is to protect academic freedom and offer economic security.
AB. **Tenure Home**: The Principle Unit where tenure and rank resides or will reside.
AC. **Tenure-Track Faculty**: A faculty member in their pre-tenure probationary

period, eligible for tenure but who has not yet been granted tenure, sometimes also referred to as “candidate” (as are faculty members seeking promotion).

AD. **Tenured Faculty**: A faculty member who has been awarded tenure by the executive vice president and provost.

## PART 3: IMPLEMENTATION OF 2017 REVISED RULES; PRINCIPAL UNIT COORDINATION; PERIODIC RULES REVIEW

The revised NMSU Rules on Faculty Evaluation, Promotion, and Tenure will become effective August 13, 2018. Prior to this effective date, each Principal Unit must update its promotion and tenure policies and forms consistent with ARP 9.30 – 9.36. At the discretion of the executive vice president and provost, the deadline for the NMSU Rules on Faculty Evaluation, Promotion and Tenure may be extended pending completion of the Principal Units’ Promotion and Tenure Policies.

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 9 | HR - Performance Evaluation, Promotion and Tenure

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 05/10/2017

## Related

**Cross-Reference:**
**ARP 6.03 – Employment Categories**

**ARP 6.35 – Non-tenure Track Faculty Appointments**

**ARP 6.61 – Assignments – Teaching Load**

**ARP 9.31 – [Effective AY 18/19] Annual Performance Evaluation – Regular Faculty**

**ARP 9.32 – [Effective AY 18/19] Faculty Promotion and Tenure: Purpose and Guiding Principles**

**ARP 9.33 – [Effective AY 18/19] Faculty Promotion and Tenure: The Professorial Ranks**

**ARP 9.34 – [Effective AY 18/19] Faculty Promotion and Tenure Committees; Common Elements Required in the Principal Unit Policies**

**ARP 9.35 – [Effective AY 18/19] Faculty Promotion and Tenure Reviews: Procedural Guidelines and Timeline**

**ARP 9.36 – Faculty Post Tenure Review**

**Combined P & T Rules Through 08/12/2018 (PDF)**

**Combined P & T Rules After 08/12/2018 (PDF)**

**Revision History:**
2017 Recompilation, formerly part of Rule 5.90
05/10/2017 Adoption approved by Chancellor with 08/13/2018 Effective Date
10/21/2015 former Policy 5.90 replicated by Board of Regents as initial Rule 5.90
07/15/2008 Amendments to Policy 5.90 ratified by Board of Regents, with 08/01/2008 effective date
Prior revision history as Policy 5.90 not available

---

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 9.31 – [Effective AY 18/19] Annual Performance Evaluation – Regular Faculty

arp.nmsu.edu/9-31

## PART 1: PURPOSE

This Rule affirms that the regular faculty are to be evaluated based on their performance in the Four Areas of Faculty Effort (*See* Part 3 below), and in accordance with their respective assigned workload's Allocation of Effort. (*See Also* **ARP 9.33 – [Effective AY 18/19] Faculty Promotion and Tenure: The Professorial Ranks**) This Rule also provides guiding principles (Part 2), the elements required to be in each Principal Unit's Performance Evaluation policies (Part 4), and procedural guidelines relating to annual performance evaluation of the regular faculty (Part 5). (*See Also* **ARP 6.71 Department Head Appointments** and **ARP 6.35 – Non-tenure Track Faculty Appointments**.)

## PART 2: GUIDING PRINCIPLES RELATING TO ANNUAL PERFORMANCE EVALUATION

(*See Also* **ARP 6.61 Faculty Assignments – Teaching Load**)

A. **Service to Mission**: The amount of effort that faculty members regardless of rank or position devote to the various aspects of their duties necessarily varies, and any promotion and tenure process will recognize these variations. A successful process considers whether the faculty member is effectively serving the mission of the university, as defined by a department's criteria and the individual's agreed upon goals and objectives. This means, for example, that the efforts of a faculty member made in response to administrators or committees are taken into account during promotion and tenure evaluation.
B. **Consideration for Variance in Duties**: The efforts of two faculty members may vary at the same points in their careers according to their particular strengths and department needs. Faculty assignments in different departments will also vary. For example, a department or program must

not impose similar expectations for scholarship and creative activity, service, extension, or outreach from a faculty member teaching one class a semester as from another faculty member teaching three classes a semester or several large lecture classes.

C. **Equitable Treatment**: In order to ensure equitable treatment, every faculty member will complete an Allocation of Effort statement (*See* Part 4. B. 1. below) as part of the Annual Performance Evaluation process. When determining the Allocation of Effort, decisions must be made without regard to race, national origin, gender, gender identity, age, disability, political beliefs, religion, marital status, sexual orientation, special friendships, or animus towards candidates. Further, for the Allocation of Effort statement to be accurate and useful, administrators at all levels must understand and take an active role in avoiding institutional factors that could produce an undue burden on untenured faculty members.

# PART 3: THE FOUR AREAS OF FACULTY EFFORT: TEACHING AND ADVISING, SCHOLARSHIP AND CREATIVE ACTIVITY, EXTENSION AND OUTREACH, AND SERVICE

## A. Evaluation Emphasizes Four Areas of Faculty Effort

**Serious attention must be given to performance in the Four Areas of Faculty Effort**: teaching and advising, scholarship and creative activity, service, and extension and outreach. The relative importance of each of these areas varies according to the cumulative Allocation of Effort statements. Each area is vital to the university's ability to achieve its mission, and the performance of a faculty member will be viewed as an indication of future contributions.

## B. Leadership May Be Considered in Each Area of Faculty Effort

While a faculty member's performance must be evaluated through their contributions to the Four Areas of Faculty Effort, leadership is an important component. Leadership must not be considered as a separate area to be evaluated. Rather, when applicable, its value should be considered in how they affect performance in one or more of the Four Areas of Faculty Effort.

## C. Teaching and Advising

1. **Description of Teaching and Advising Activities**:
    a. **Elements of Teaching as Essential Criterion**: Teaching is central to NMSU's mission. For those who teach, effectiveness in teaching and advising is an essential criterion for tenure and for advancement in rank. The teaching and advising category includes all forms of university-level instructional activity, as well as advising undergraduate and graduate students, both within and outside the university community. Such activities are commonly characterized by the dissemination of knowledge within a faculty member's area of expertise; skill in stimulating students to think critically and to apply knowledge to human problems; the integration and application of relevant domestic and international, social, political, economic, and ethical implications into class content; the preparation of students for careers in specific fields of study; and the creation and supervision of appropriate field or clinical practicums.
    b. **Responsibilities of Teaching and Advising**: Teaching and advising responsibilities may include, but are not limited to, preparation for and teaching of a variety of courses, seminars, and other academic learning experiences; non-credit workshops and informal instructional activities; course and program development; team or collaborative teaching; web-based instruction, both on and off campus; supervision of student research, performances, or productions; service on graduate student program and research committees; field supervision and administration of field or clinical experiences; production of course materials, textbooks, web pages and other electronic aids to learning; and others.
    c. **Forms of Faculty Advising**: Faculty advising may take the form of assisting undergraduate or graduate students in the selection of courses or careers, assisting learners in educational programs on and off campus, mentoring students, serving as faculty adviser to student groups, research and teaching advising, as well as other forms. (*See Also* **ARP 9.32** Part 8, "University Library Faculty")
2. **Evaluation Criteria for Teaching and Advising**:
    a. **Evidence to Assess Teaching Effectiveness**: Teaching is a complex and multifaceted activity. Therefore, several forms of evidence should be used to assess comprehensively teaching effectiveness. Each form of evidence will be weighted according to appropriate to its importance in evaluating teaching. Such documentation must demonstrate command of subject matter, the ability to organize material and convey it effectively to students, and assessment of student learning. It may also demonstrate revision and updates of

curricula, and the integration of scholarship (for faculty who produce scholarship) and service with teaching. **Materials appropriate for evaluating teaching should include**: (a) evidence from the instructor, (b) evidence from other professionals, (c) evidence from students, and (d) evidence of student learning. It is not necessary for all four types of evidence to be used, but in accordance with state law, at a minimum, student evaluations and one other form of evidence must be used. Student evaluations considered as part of performance evaluations, may not include numerical ratings, letter grades, or other "scores" of specific aspects of the course, the course as a whole, or of the instructor.

b. **Principal Units to Develop Guidelines**: Each Principle Unit is to create clear guidelines for its teaching faculty that define teaching responsibilities and specify required evidence documenting teaching effectiveness. Specific data to be included in the evaluation packet will be determined by each Principle Unit.
c. **Evaluation of Advising**: For evaluation promotion and tenure considerations, performance in such activities must be documented and evaluated. Each Principle Unit is to create clear guidelines regarding the responsibilities and documentation requirements for its faculty who advise or mentor.

## D. Scholarship and Creative Activity:

1. **Description of Scholarly and Creative Activities**:
    a. **Rationale**: This understanding is grounded in Boyer's concept of the four scholarships:
        i. The scholarship of discovery involves processes, outcomes, and the passionate commitment of the professoriate and others in the university to disciplined inquiry and exploration in the development of knowledge and skills;
        ii. The scholarship of teaching involves dynamic, reciprocal, and critically reflective processes among teachers and learners at the university and in the community in which their activity and interaction enriches and transforms knowledge and skills, taught and learned;
        iii. The scholarship of engagement refers to the many and varied ways to responsibly offer and employ knowledge and skills to matters of consequence to the university and the community; and
        iv. The scholarship of integration is the process by which knowledge and skills are assessed, interpreted, and applied in

new and creative ways to produce new, richer, and more comprehensive, insights, understanding, and outcomes. *Boyer, Ernest L. (1990).*

v. ***Scholarship reconsidered****: Priorities of the Professoriate. New York: Carnegie Foundation for the Advancement of Teaching.*

b. **NMSU Definition of Scholarship and Creative Activity**: Products developed through these processes, are typically public, open to peer review, and available for use by others, but may also include classified projects, protected intellectual property or other confidential materials. Scholarship and creative activity can take many forms, including but not limited to refereed publications and patented intellectual property. At NMSU's community colleges, scholarship and creative activity includes scholarship that is also evidenced by professional development activities that disseminate knowledge to the college's learning communities.

c. **Acknowledgement of Land Grant Mission**: This definition reflects the university's mission as the state's land-grant university, serving the needs of New Mexico's diverse population through comprehensive programs of teaching and advising, scholarship and creative activity, extension and outreach, and service. It addresses the breadth and diversity of scholarly and creative activity among faculty, staff, and students through which this mission is fulfilled.

2. **Evaluation Criteria for Scholarship and Creative Activity**: All scholarly activity and outcomes, regardless of funding source, must consider the following criteria adapted from Diamond:

a. The activity's purposes, goals, and objectives are clear. The objectives are realistic and achievable. It addresses important questions in the field.

b. The activity reveals a high level of discipline-related expertise. The scholar brings to the activity a high level of relevant knowledge, skills, artistry, and reflective understanding.

c. Appropriate methods are used for the activity, including principles of honesty, integrity, and objectivity. The methods have been chosen wisely, and applied effectively. It allows for replication or elaboration.

d. The activity achieves its goals and its outcomes have significant impact. It adds consequentially to the field. It breaks new ground or is innovative. It leads to further exploration or new avenues for exploration for the scholar and for others.

e. The activity and outcomes have been presented appropriately and effectively to its various audiences.

f. The activity and outcomes are judged meritorious and significant by

one's peers.

g. The scholar has critically evaluated the activity and outcomes and has assessed the impact and implications on the greater community, the community of scholars and on one's own work. The scholar uses this assessment to improve, extend, revise, and integrate subsequent work.*Diamond, Robert M. (2002). Serving on promotion, tenure, and faculty review committees: A faculty guide, 2nd ed. Bolton, MA: Ankar Publishing.*

## E. Extension and Outreach:

1. **Description of Extension and Outreach Activitie**s:
   a. The central role of extension and outreach is recognized in that several Principle Units are dedicated to these functions. There are also numerous faculty members in other units for whom extension and outreach are major components of their duties.
   b. **Collaborative Effort**: Extension and outreach work is collaborative by nature. Faculty should provide evidence of collaboration with whomever necessary to identify local needs, garner resources, discover and adapt new knowledge, design and deliver programs, assess clientele skill changes, and communicate program results. Collaborative effort should also include networking with other university faculty in identified areas of program discovery, development, and delivery, including applications to teaching and advising where appropriate.
2. **Evaluation Criteria for Extension and Outreach**: Faculty must provide evidence of the collaborative and other efforts to receive recognition in this Area of Faculty Effort.
   a. **The documentation should provide evidence that the work is**:
      i. creative and intellectual;
      ii. communicated to stakeholders; and
      iii. have a beneficial effect on stakeholders and the region.
   b. **Components of extension include**:
      i. developing programs based on locally identified needs, concerns, and/or issues; targeting specific audiences;
      ii. setting goals and objectives for the program;
      iii. reviewing current literature and/or research for the program;
      iv. planning appropriate program delivery;
      v. documenting changes in clientele knowledge, behaviors, attitudes, and/or skills;
      vi. conducting a reflective critique and/or evaluation of the program;

vii. validation of the program by peers and/or stakeholders; and
viii. communicating results to stakeholders and decision makers.

## F. Service

1. **Description of Service Activities**: Service is an essential component of the university's mission and requires the faculty member to contribute to the organization and development of the university, as well as to provide service to local, state, national, or international agencies, organizations or institutions which may benefit from the faculty member's professional knowledge and skills.
2. **Evaluation Criteria for Service Activities**: The type and amount of service that a faculty member performs should be determined in consultation with the appropriate administrator(s). All relevant activities in which a faculty member participates should receive appropriate consideration for promotion and tenure decisions. Service contributions should be evaluated based on how they are applied and how they draw upon the professional expertise of the faculty member.

# PART 4: REQUIREMENTS FOR PRINCIPAL UNITS' EVALUATION POLICIES

## A. Policies

Performance evaluation policies of the Principle Units must:

1. State that Performance Evaluations are conducted annually.
2. Include a timeline consistent with the timeline for promotion and for tenure as described in **ARP 9.25** Part 9, "University Timeline for Promotion and Tenure."
3. Require that each faculty member meet with their department head or comparable administrator annually regarding progress toward promotion and tenure as appropriate, the recording of objectives and goals, and the department faculty evaluation format.
4. Describe the process for the faculty member to submit a written statement in response to the annual performance evaluations.
5. Outline process for transmitting the performance evaluation, along with any supporting material, from the faculty member to the faculty member's department head.
6. Describe a process for transmitting a written copy of the department head review to the individual being reviewed and, along with the faculty

member's written statement, if any, to the dean or equivalent administrator.

7. Include a certification from the department head indicating that the Annual Performance Evaluation meeting with the faculty member occurred. The performance evaluation will not be considered final until the meeting has occurred and been documented, typically by the signatures of the Department Head and the faculty member.

## B. Performance Evaluation Forms

Performance evaluation forms in the Principle Units must include the following elements:

1. **Allocation of Effort Statement**:
    a. **Use of Allocation of Effort Statement**: Each college shall develop and use an Allocation of Effort statement as specified here and in **ARP 6.61**. These statements shall also be a part of the candidate/faculty member's tenure and/or promotion Portfolio, and all aspects of the agreed upon efforts shall be factored into the recommendation made at each step of the process.
    b. The allocation percentages will be negotiated by the faculty member and the department head in alignment with the departmental workload policy and **ARP 6.61**, and will be approved annually by the faculty member's department head and dean. If agreement cannot be reached, the dean or equivalent administrator may assign the Allocation of Effort, and the faculty member may appeal through existing university procedures.
    c. The Allocation of Effort statement and assigned percentages may be altered during the year with the mutual agreement of the faculty member, department head, and dean to reflect changing circumstances, such as service on a particularly time-consuming committee or grant, time for scholarship and creative activity, emergency teaching and advising assignments, etc.
    d. **At the minimum, the Allocation of Effort statement will contain the following elements**:
        i. Percentage of effort to be devoted to the Four Areas of Faculty Effort. The total percentage shall be 100%, but any category may be zero percent.
        ii. A statement of what the Principle Unit considers a full teaching and advising load.
        iii. If the Principle Unit utilizes a weighting, ranking, or scoring system, the value assigned to each category must be indicated.

The values must be calculated proportionately to the faculty member's Allocation of Effort.

2. Current Position Description.
3. **Submission from Faculty Member**: A written section submitted by the faculty member detailing and citing accomplishments in relation to the Four Areas of Faculty Effort.
4. **Written Review by Department Head**: A written review from the department head including specific commendations, concerns, and recommendations in each of the areas of performance, as well as separate comments about progress toward promotion and tenure.

## PART 5: PROCEDURAL GUIDELINES FOR ANNUAL PERFORMANCE EVALUATION

A. The performance of each regular faculty member, including College Faculty, Research Faculty, and library faculty, must be reviewed at least once a year. The Annual Performance Evaluation provides documentation of expectations and a record of faculty performance relative to stated expectations in Allocation of Effort documents.

B. Each college and community college determines and uses its own performance evaluation form (*See* Part 4.B. above, "Performance Evaluation Forms"). Early in each fall semester the department head supplies each faculty member with a form. At this time the department head confers with new faculty members concerning the recording of objectives and goals and the general use of the form. In the case of continuing faculty members, the department head or faculty may request a conference for the purpose of revising or updating objectives previously agreed upon. Department heads will share the above agreements in writing with the faculty member.

C. Department heads are expected to meet with all new faculty members regarding progress toward promotion and tenure and to certify in writing to the appropriate dean that these meetings have occurred. Returning faculty members or their department heads may request an annual meeting regarding progress toward promotion and tenure. Specific evaluative comments in each of the three areas of performance are required, as well as separate comments about progress toward tenure and toward promotion.

D. Each faculty member completes a written form or digital database detailing and citing accomplishments in Four Areas of Faculty Effort, of teaching, research and/or creative scholarship, service, and extension and outreach during the performance evaluation period. The type, method of collection,

and disposition of evidence regarding effectiveness of teaching is of particular importance, and faculty should consult their with department head concerning collection of this evidence. The performance evaluation form, along with any supplemental material, is submitted by each faculty member to the faculty member's department head.

E. The department head reviews the faculty performance forms, prepares a written evaluation based upon accomplishments reported as compared with previously set goals and objectives (a copy of this report will be shared with the faculty member), and confers with appropriate deans on the written recommendation and the prepared summary to be discussed with the faculty member. Following the conference with the dean, the department head meets with the faculty member to discuss all aspects of the performance evaluation, addressing separately the person's progress toward promotion, progress toward tenure, strengths, and weaknesses. This conference also serves to set goals and objectives for the ensuing year. These goals and objectives will be placed in writing, with a copy to the faculty member. At community colleges with program coordinators, the coordinator performs the duties of a department head in the evaluation process.
F. Department heads, along with departmental promotion and tenure committees, college dean, and college promotion and tenure committees formulate independent recommendations where appropriate regarding evaluation on the basis of policies stated in this manual. These are communicated to the Executive Vice President and Provost.
G. Each college generates its own time schedule for accomplishing the above items within the parameters of the university calendar.

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 9 | HR - Performance Evaluation, Promotion and Tenure

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 05/20/2019

## Related

**Cross-Reference:**
**ARP 6.35 – Non-tenure Track Faculty Appointments**

**ARP 6.61 – Assignments – Teaching Load**

**ARP 6.71 – Department Head Appointments**

**ARP 9.25 – [Pre-AY 18/19] Faculty Promotion and Tenure – Policies**

**ARP 9.32 – [Effective AY 18/19] Faculty Promotion and Tenure: Purpose and Guiding Principles**

**ARP 9.33 – [Effective AY 18/19] Faculty Promotion and Tenure: The Professorial Ranks**

**Combined P & T Rules Through 08/12/2018 (PDF)**

**Combined P & T Rules After 08/12/2018 (PDF)**

**Revision History:**
05/20/2019 Amendment [FSP Prop 16-18/19] approved by Chancellor
2017 Recompilation, formerly part of Rule 5.86 (AY18/19)
05/10/2017 Adoption approved by Chancellor, with 08/13/2018 Effective Date
10/21/2015 former Policy 5.86 replicated by Board of Regents as initial Rule 5.86
07/15/2008 Amendments to Policy 5.90 ratified by Board of Regents,
with 08/01/2008 effective date
Prior revision history as Policy 5.86 not available

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 9.32 – [Effective AY 18/19] Faculty Promotion and Tenure: Purpose and Guiding Principles

arp.nmsu.edu/9-32

## PART 1: PURPOSE

Promotion and tenure decisions are the means by which NMSU rewards and retains its most valued scholars, sustains excellence in its instructional disciplines, and fulfills its mission to advance knowledge. The quality of faculty accomplishments in teaching and advising, scholarship and creative activity, extension and outreach, and service, (collectively referred to as the Four Areas of Faculty Effort), largely determines the quality of the university as a whole. The processes involved in promotion and tenure must be fair, transparent, and participatory. For additional rules and principles relating to promotion and tenure, *See* Cross References listed in the box at end of this Rule.

## PART 2: NATURE OF PROMOTION AND TENURE REVIEWS

1. The integrity of the promotion and tenure processes relies upon consultation by and between groups and individuals with successively broader views of the mission of the university, participation by the involved faculty member, who has an opportunity to seek redress for perceived violations of policy, rules or procedure which might unfairly affect the outcome. (*See* **ARP 9.34**, Part 1 – Principal Unit Committees; **ARP 9.35**, Part 5 – Roles and Responsibilities in Promotion and Tenure Reviews and Part 9 – Right to Seek Redress for Violation of Faculty Evaluation, Promotion and Tenure Rules.) In order to achieve fairness, transparency, and broad-based participation, all of the parties must base decisions on the documentation described in the NMSU Rules on Faculty Evaluation, Promotion and Tenure.
2. The NMSU Rules on Faculty Evaluation, Promotion and Tenure are based in large part on the four types of scholarship defined by Ernest L. Boyer[1], namely, the scholarships of discovery, of teaching, of integration, and of

engagement. At NMSU, Boyer's definition of scholarship has been broadened to reflect the changing roles of faculty members in teaching and advising, scholarship and creative activity, extension and outreach, and service. *See* **ARP 9.31** Part 3.D. (Scholarship and Creative Activity)

3. Applicants for tenure or promotion must be reviewed on their performance of the duties assigned to them, following agreed-upon allocations of effort. (*See* **ARP 9.31** Part 2; **ARP 6.61 Faculty Assignments – Teaching Load**)

## PART 3: FACULTY PARTICIPATION

The selection and retention of faculty members are of utmost importance to the quality of the university, the achievement of university goals, and the future of the institution. In order to ensure a fair process for recognition of excellent faculty, it shall be the policy of the university to allow faculty members to vote on the promotion or tenure of departmental colleagues, exercising collegial judgment based on criteria established for promotion and tenure by the Principal Units and consistent with the NMSU Rules on Faculty Evaluation, Promotion and Tenure.

## PART 4: TRANSPARENCY OF PROCESS

Faculty members are entitled to know what is expected of them, how they will be evaluated, and the rules of each applicable process.

A. **Promotion and Tenure Information to be Provided to Eligible Faculty**: Upon hiring of a regular faculty member, the department head or head of the Principle Unit, will provide the faculty member with electronic copies of applicable promotion and tenure policies, including departmental, college (or comparable equivalent) and university (See **Combined P & T Rules Through 08/12/2018** or **Combined P & T Rules After 8/12/2018**). The department head, or head of the Principle Unit, will provide, electronically, a similar packet of materials to faculty members eligible to be considered for promotion and/or tenure during the spring semester prior the academic year in which the application for promotion and/or tenure will be made.

B. **Notice of Principal Unit Functions and Criteria Statement or Equivalent**: Each departmental Principal Unit shall post on its website its current statement of goals, objectives, and expectations as these relate to promotion and tenure (sometimes called a functions and criteria statement). These shall be agreed upon by the faculty in each department

and approved by the responsible dean or comparable administrator.

C. **Notice of Principal Unit Promotion and Tenure Policies and Procedures**: Each Principal Unit shall post on its website its written promotion and tenure policy document, which must be in alignment with the NMSU Rules on Faculty Evaluation, Promotion and Tenure. In addition, they must post the link to the Office of the Provost's website.

D. **Notice of NMSU Rules on Faculty Evaluation, Promotion and Tenure**: The Office of the Executive Vice President and Provost will post the current and previous editions of the NMSU Rules on Faculty Evaluation, Promotion and Tenure on its website. It will also post other relevant information pertaining to the annual promotion and tenure review processes, including but not limited to forms, to explain and facilitate the process for candidates and academic administrators alike.

## PART 5: AVOIDANCE OF CONFLICT OF INTEREST

University faculty and academic administrators involved in the review and recommendation or decision making processes relating to an application for promotion or tenure shall not have any conflict of interest that would render them unable to perform their duties in a fair, impartial and equitable manner. *See Also* conflict of interest rules ARP 3.00 – 3.13 and **ARP 3.25 Discrimination, Harassment and Sexual Misconduct on Campus**.

## PART 6: STATEMENT ON VALUE OF DIVERSITY; COMMITMENT AGAINST DISCRIMINATION

NMSU values the richness that inquiry based upon intellectual and cultural differences brings to the university community. NMSU administrators recognize that all employment decisions must be made without regard to race, national origin, gender, gender identity, age, disability, political beliefs, religion, marital status, sexual orientation, special friendships, or animus towards candidates, taking care to avoid conflicts of interest, structural, institutional, or habitual thoughts and patterns that could lead to disparate treatment, including prohibited discrimination and undue preferential treatment. (*See Also* conflict of interest rules ARP 3.00 – 3.13 and **ARP 3.25 Discrimination, Harassment and Sexual Misconduct on Campus**.)

## PART 7: COMMUNITY COLLEGES

The mission of the NMSU community colleges is to provide open access to quality education and support economic and cultural life in prescribed service areas. Community colleges provide traditional liberal arts education, vocational and technical training, contract training, community interest classes, and developmental education. Every effort is made to keep programs and curricula flexible, in order to accommodate varied and expanding community educational needs. Since the community college's primary role is the dissemination of information, more emphasis is placed on teaching and advising, in the evaluation process. Due to their size, the organizational structure for tenure review at the Alamogordo, Carlsbad, and Grants campuses consists of one tenure committee instead of two. (*See* **ARP 9.34**)

## PART 8: UNIVERSITY LIBRARY FACULTY

University library faculty are expected to meet university requirements for academic appointment and promotion and tenure considerations. For these purposes, the category of librarianship is equivalent to the teaching and advising category. The University Library places the highest value on the element of librarianship. Librarianship includes, but is not limited to the organization of knowledge, the understanding and use of technology as it relates to the information field, teaching, library management, service delivery, and building collections.

## PART 9: COLLEGE AND RESEARCH FACULTY

College and Research faculty may hold ranks as described in **ARP 9.33** and are eligible to be considered for promotion. The distinct roles of the College and Research Faculty should be recognized in the promotion process, and the standards and criteria for promotion should be appropriately adjusted. Committees for promotion of College and Research Faculty must include college faculty representation. (*See* **ARP 9.34** Part 1 C. "College Faculty Representation")

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 9 | HR - Performance Evaluation, Promotion and Tenure

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 05/10/2017

## Related

**Cross-Reference:**
**ARP 3.00 - ARP 3.13**

**ARP 3.25 – Discrimination, Harassment and Sexual Misconduct on Campus**

**ARP 6.61 – Assignments – Teaching Load**

**ARP 9.31 – [Effective AY 18/19] Annual Performance Evaluation – Regular Faculty**

**ARP 9.33 – [Effective AY 18/19] Faculty Promotion and Tenure: The Professorial Ranks**

**ARP 9.34 – [Effective AY 18/19] Faculty Promotion and Tenure Committees; Common Elements Required in the Principal Unit Policies**

**ARP 9.35 – [Effective AY 18/19] Faculty Promotion and Tenure Reviews: Procedural Guidelines and Timeline**

**Combined P & T Rules Through 08/12/2018 (PDF)**

**Combined P & T Rules After 08/12/2018 (PDF)**

**Revision History:**
2017 Recompilation, formerly part of Rule 5.90
05/10/2017 Adoption approved by Chancellor with 08/13/2018 Effective Date
10/21/2015 former Policy 5.90 replicated by Board of Regents as initial Rule 5.90
07/15/2008 Amendments to Policy 5.90 ratified by Board of Regents, with 08/01/2008 effective date
Prior revision history as Policy 5.90 not available

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 9.33 – [Effective AY 18/19] Faculty Promotion and Tenure: The Professorial Ranks

arp.nmsu.edu/9-33

College and Research Faculty will be eligible to be considered for advancement in rank, but are not eligible for consideration for tenure. Generalized descriptions of the professorial ranks as they relate to the promotion and tenure time table are described below. (*See* **ARP 9.31**, Part 3 and **ARP 9.32**, Part 2 for standards and evaluation criteria)

## PART 1: INSTRUCTOR

A. Demonstrates expertise within their discipline through practical, applied, and/or related experience.
B. Individuals new to this rank may not have demonstrated ability to conduct independent scholarship and creative activity, but there must be substantive evidence of likely success at university teaching or its equivalent.
C. Instructors may be working toward a terminal degree.
D. An instructor's job description primarily relates to teaching or its equivalent and usually does not include scholarship and creative activity.
E. An instructor is not eligible for tenure.

## PART 2: ASSISTANT PROFESSOR

A. Tenure-Track Assistant professors normally holds the highest terminal degree in their field of expertise.
B. Outstanding experience and recognition in a professional field may be considered the equivalent of the terminal degree.
C. An assistant professor is expected to have a thorough command of the subject matter of some segment of the discipline, in addition to a comprehension of the whole.
D. Assistant professors are Tenure-Track Faculty members hired on a yearly,

renewable contract for a maximum of seven years.

E. During the sixth year, assistant professors typically are evaluated for promotion and tenure simultaneously, having submitted their Portfolio at the beginning of that year.
F. However, an assistant professor may elect to apply for tenure or promotion at any time with the written approval of department head and dean or their equivalents.
G. A faculty member may only apply for tenure once.

## PART 3: ASSOCIATE PROFESSOR

A. An associate professor is often a mid-career faculty member who has been awarded tenure.
B. If a faculty member is initially employed at the rank of associate professor without tenure, the probationary period may vary depending upon agreements stipulated in writing at the time of initial hire.
C. Once tenured, associate professors may hold this rank indefinitely or apply for promotion.
D. Promotion to professor should not be considered to be forthcoming merely because of years of service to the university, or because tenure has previously been awarded.
E. In accordance with the Principal Unit's timelines, a faculty member may present a promotion Portfolio in any given year.
F. An associate professor must demonstrate competence, continuous progress, and a command over a large part of the academic field.
G. It is expected that evidence showing high quality of teaching and advising, scholarship and creative activity and/or extension and outreach or service has been provided and is current.

## PART 4: PROFESSOR

A. A professor, sometimes referred to as a "full professor," has established disciplinary, intellectual, and institutional leadership.
B. The professor demonstrates command of the disciplinary field as evidenced by teaching and advising, scholarship and creative activity, extension and outreach, and service.
C. Faculty members initially hired at the rank of professor are often awarded service credit or awarded tenure on appointment.

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 9 | HR - Performance Evaluation, Promotion and Tenure

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 05/10/2017

## Related

**Cross-Reference:**
**ARP 9.31 – [Effective AY 18/19] Annual Performance Evaluation – Regular Faculty**

**ARP 9.32 – [Effective AY 18/19] Faculty Promotion and Tenure: Purpose and Guiding Principles**

**Combined P & T Rules Through 08/12/2018 (PDF)**

**Combined P & T Rules After 08/12/2018 (PDF)**

**Revision History:**
2017 Recompilation, formerly part of Rule 5.90
05/10/2017 Adoption approved by Chancellor with 08/13/2018 Effective Date
10/21/2015 former Policy 5.90 replicated by Board of Regents as initial Rule 5.90
07/15/2008 Amendments to Policy 5.90 ratified by Board of Regents, with 08/01/2008 effective date
Prior revision history as Policy 5.90 not available

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 9.34 – [Effective AY 18/19] Faculty Promotion and Tenure Committees; Common Elements Required in the Principal Unit Policies

arp.nmsu.edu/9-34

## PART 1: PRINCIPAL UNIT COMMITTEES

A. **Department Promotion and Tenure Committees**: At NMSU-Las Cruces, each academic department or unit utilize a department promotion and tenure committee. At the Doña Ana Community College, divisions are treated as equivalent to departments for this rule and therefore its "department promotion and tenure committees" are elected from the regular faculty from each division.
B. **College Promotion and Tenure Committee**: Each college at the NMSU-Las Cruces campus will utilize a college promotion and tenure committee, consisting of elected faculty members. The community colleges other than Doña Ana Community College, NMSU- Alamogordo, NMSU- Carlsbad and NMSU- Grants, and the University Library utilize only one promotion and tenure committee which functions as a college promotion and tenure committee.
C. **College Faculty Representation**: Principal Unit Committees considering the promotion of College and Research Faculty must include college faculty representation of at least one college faculty member. (*See Also* **ARP 9.32**, Part 9)

## PART 2: PRINCIPAL UNIT POLICIES

A. **Department Promotion and Tenure Policy**: Each NMSU-Las Cruces department or DACC division shall have a written policy for promotion and for tenure referred to as a Department Promotion and Tenure policy. The Department Promotion and Tenure policies shall include criteria and procedures for promotion and tenure, developed collaboratively by the faculty and department/division head, and approved by the college dean or

community college Associate Vice President for Academic Affairs, as appropriate. The Department Promotion and Tenure Policy shall be consistent with their respective college or community college criteria and procedures for promotion and tenure. It shall also be consistent with the NMSU Rules on Faculty Evaluation, Promotion, and Tenure, ARP 9.30 – 9.36.

B. **College Promotion and Tenure Policy**: Each college, community college and the University Library must have a written policy for promotion and for tenure, developed collaboratively by the tenure and Tenure-Track Faculty and college academic administration, and approved by the executive vice president and provost. The college promotion and tenure policies must be consistent with the NMSU Rules on Faculty Evaluation, Promotion, and Tenure (ARP 9.30 – 9.36).
C. **Development of Promotion Procedures**: Colleges must develop specific promotion procedures for their College and Research Faculty. The protections for College and Research Faculty must be the same as those given Tenure-Track Faculty and tenured faculty in **ARP 9.31 – [Effective AY 18/19] Annual Performance Evaluation – Regular Faculty** and Part 3 of this rule.

## PART 3: COMMON ELEMENTS FOR PRINCIPAL UNITS' PROMOTION AND TENURE POLICIES

To facilitate consistency with the NMSU Rules on Faculty Evaluation, Promotion, and Tenure (ARP 9.30 – 9.36), each department and college promotion and tenure policy must contain the following:

A. A statement that university policies regarding promotion and tenure supersede department and college policies.
B. Statements describing the criteria for promotion and tenure consistent with performance evaluation criteria. (See **ARP 9.31 – [Effective AY 18/19] Annual Performance Evaluation – Regular Faculty**).
C. A provision permitting a candidate to temporarily suspend the promotion and tenure time process in accordance with the procedure provided in **ARP 9.35 – [Effective AY 18/19] Faculty Promotion and Tenure Reviews: Procedural Guidelines and Timeline**.
D. A statement regarding confidentiality of records and all committee procedures, including the manner in which confidentiality is ensured. Exceptions must be clearly indicated.
E. A commitment to review for potential update the Principle Units' respective policies and procedures for evaluation, promotion and tenure, including

but not limited to those occasions when the NMSU Rules on Faculty Evaluation, Promotion and Tenure are amended, to maintain consistency. A standing committee of the Faculty Senate will review the NMSU Rules on Faculty Evaluation, Promotion, and Tenure. College rules and procedures for promotion and tenure will be reviewed by a college committee which will include Faculty Senators. Department rules and procedure for evaluation, promotion and tenure will be reviewed by a departmental committee including faculty from the department and the department head.

F. A statement to the effect that if the NMSU Rules on Faculty Evaluation, Promotion, and Tenure (ARP 9.30 – 9.36) should change during a faculty member's pre-tenure or pre-promotion period, the faculty member may elect whether to be evaluated by the former Rule or the revised Rule, and this election shall be documented in writing to clearly specify which standards, criteria, etc will be applied in accordance with the faculty member's election.

G. A procedure for the conduct of a Mid-Probationary Review. Faculty who choose to participate in the review process must submit their Portfolio to their department head by mid-January. The Portfolio shall be prepared in accordance with **ARP 9.35** Part 6, "Portfolio Preparation by Candidate" and be reviewed by the department promotion and tenure committee, the department head, and the college promotion and tenure committee. The college committee will provide to the department head and faculty member a written formative evaluation of progress. The review is conducted in accordance with the Principle Unit's promotion and tenure policy. (*See***ARP 9.35** Part 3, "Mid-Probationary Review")

H. A procedure for electing the college promotion and tenure committee. All tenure and Tenure-Track Faculty are eligible to vote during the election. When colleges choose to include college faculty on this committee, college faculty are eligible to vote for college faculty membership on the college committee.

I. Procedure for selecting members of the department promotion and tenure committee.

J. Definition of eligibility for serving on the promotion and tenure committees. Only tenured faculty members are eligible to vote for tenure and promotion. College-track faculty who serve on the college committee are eligible to vote on promotion of college-track faculty. In instances of promotion, committee members must hold a rank at least equal to the rank for which the candidate is applying.

K. Provisions for term limits if desired for serving on the department promotion and tenure committee.

L. Provisions for term limits for serving on the college promotion and tenure committee are required, except at the Alamogordo, Carlsbad, and Grants community colleges.
M. The provision that in no case will a promotion and tenure committee be comprised of fewer than three eligible members.
N. A provision for addressing cases where there are inadequate numbers of eligible faculty to constitute a committee. The department and/or the college promotion and tenure committees may have members from outside the department.
O. The provision that the dean, department head, or comparable administrator may meet with the Principle Units' promotion and tenure committees to discuss procedural matters.
P. The provision that the deliberations and voting of promotion and tenure committees will be conducted in closed session only among committee members. Committee members can attend sessions by a confidential electronic method with permission of the committee chair. Committee members must take part in the deliberations in order to vote.
Q. A method for surveying the committees' recommendations regarding each candidate(s) via secret written ballot. Committee members may vote in person, or by an appropriate confidential electronic method with the permission of the committee chair. Absentia and proxy ballots are not permitted. All vote counts must be recorded.
R. A method for the Principle Units' promotion and tenure committees to submit a letter summarizing its recommendations and the numerical vote count on each candidate to the department head and college dean or comparable administrator. **The recommendation must**:
    1. Reflect the majority view.
    2. Contain specific commendations, concerns, and recommendations addressing the department's criteria in each of the areas required for promotion and tenure.
    3. Allow for dissenting opinions containing specific commendations, concerns, and recommendations addressing the criteria in each of the areas required for promotion and tenure.
S. A method for informing each candidate in writing of the Principle Units' recommendations and numerical vote count, the department head's letter, and/or the dean's or comparable administrator's letter.
T. The provision that a candidate may withdraw from further consideration in accordance with **ARP 9.25 Part 6, "Withdrawal"**.
U. Guidelines for preparing the Portfolio. (*See* **ARP 9.35** Part 6, "Portfolio Preparation") The parties shall refer to the individual college policies for additional guidelines.

V. A mechanism to provide candidates with sample Portfolios. If the Portfolios of actual persons are used, written permission must be obtained from the owner of the Portfolio.
W. A procedure for indicating how and when a candidate may change, add, or delete materials from the Portfolio after the Portfolio is submitted to the committee for review.
X. A statement regarding the location where the Documentation File will be stored and accessed for review.
Y. A procedure for indicating how and when evaluators may request additional information. All requests must be made in writing and transmitted to the candidate.
Z. A procedure allowing the candidate to review all items included in the Portfolio assembled prior to the review by appropriate committees, administrators, and/or External Reviewers.
AA. **A procedure for soliciting external letters of review which incorporates the following**:
    1. The number of letters that shall be solicited for each candidate. At least three letters should be included in a tenure or promotion Portfolio.
    2. Specifications regarding how the letters will be placed into the candidate's Portfolio. The department head will contact reviewers to solicit the letters.
    3. Specifications regarding how much and what type of material is supplied to reviewers. The department and/or college policies and criteria for tenure and promotion must be provided to reviewers.
    4. Specifications regarding the criteria for serving as an External Reviewer. A reviewer will be a highly regarded expert in one or more aspects of the candidates work and must be able to offer an objective assessment of the candidate's work. When a reviewer holds a tenured position, it should be at or above the rank sought by the candidate. Departmental rules and procedures should be precise about who is or is not appropriate to serve as an External Reviewer. It is recommended that a candidate has a diverse set of reviewers to get the most complete picture of the candidate's performance.
    5. Conflicts of interest, either real or perceived, must be avoided when selecting External Reviewers. *See* ARP 3.00 through 3.13 relating to Conflicts of Interest and Ethical Conduct for more information.
    6. **Instructions to Reviewers (authors of external review letters and Letters of Support), including**:
        a. A request for a brief statement regarding the individual's qualifications for serving as a reviewer.

b. A request that the reviewer indicate the relationship between the candidate and reviewer.
c. Notification that the candidate will have an opportunity to read the letter of assessment.
d. Notification that third parties in the event of an EEOC or other investigation into a tenure or promotion decision may review letters.

7. A statement addressing the role, if any, of unsolicited letters. If a Principle Unit decides to accept unsolicited letters, such letters must be included in the Portfolio prior to review by the Department Promotion and Tenure Committee. If the Principle Unit does not have an explicit statement regarding unsolicited letters, such letters will not be accepted nor included in the Portfolio.

AB. A statement regarding post-tenure review in accordance with **ARP 9.36 – [Effective AY 18/19] Post-Tenure Review**.

AC. Reference to the appeals process as outlined in **ARP 3.25 Discrimination, Harassment and Sexual Misconduct on Campus** and **ARP 10.60 Faculty Grievance Review and Resolution**.

AD. Develop a procedure for reviewing the university's Conflict of Interest policies, rules and procedures with the promotion and tenure review committee(s)

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 9 | HR - Performance Evaluation, Promotion and Tenure

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 05/10/2017

## Related

**Cross-Reference:**
**ARP 3.00 - 3.13**

**ARP 3.25 – Discrimination, Harassment and Sexual Misconduct on Campus**

**ARP 9.30 – [Effective AY 18/19] Overview of Faculty Evaluation, Promotion and Tenure Rules; Definitions; Periodic Rules Review**

**ARP 9.31 – [Effective AY 18/19] Annual Performance Evaluation – Regular Faculty**

**ARP 9.32 – [Effective AY 18/19] Faculty Promotion and Tenure: Purpose and Guiding Principles**

**ARP 9.33 – [Effective AY 18/19] Faculty Promotion and Tenure: The Professorial Ranks**

**ARP 9.34 – [Effective AY 18/19] Faculty Promotion and Tenure Committees; Common Elements Required in the Principal Unit Policies**

**ARP 9.35 – [Effective AY 18/19] Faculty Promotion and Tenure Reviews: Procedural Guidelines and Timeline**

**ARP 9.36 – Faculty Post Tenure Review**

**ARP 10.60 – Faculty Grievance Review and Resolution**

**Combined P & T Rules Through 08/12/2018 (PDF)**

**Combined P & T Rules After 08/12/2018 (PDF)**

**Revision History:**
2017 Recompilation, formerly part of Rule 5.90
05/10/2017 Adoption approved by Chancellor with 08/13/2018 Effective Date
10/21/2015 former Policy 5.90 replicated by Board of Regents as initial Rule 5.90
07/15/2008 Amendments to Policy 5.90 ratified by Board of Regents, with 08/01/2008 effective date
Prior revision history as Policy 5.90 not available

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 9.35 – [Effective AY 18/19] Faculty Promotion and Tenure Reviews: Procedural Guidelines and Timeline

arp.nmsu.edu/9-35

## PART 1: PRE-TENURE PROBATIONARY PERIOD

Before being considered for tenure at NMSU, eligible faculty members with or without previous experience from other institutions of higher education serve five years of the pre-tenure probationary period prior to applying for tenure during the sixth year of the probationary period. The six year probationary period may be reduced or extended, in accordance with the guidelines in Part 2, and with the proper approvals. The probationary period begins with the first contract for a full academic year. See Also **ARP 9.40 – Tenure Track Faculty – Pre-Tenure Period**.

## PART 2: FLEXIBILITY IN TENURE-TRACK

This Part describes the circumstances which may justify modification of the six year term of the pre-tenure probationary period.

A. **Credit for Prior Service**: Faculty members with previous teaching and advising, service, extension, outreach, scholarly, and/or administrative experience at another institution may have some or all of that experience taken into consideration on appointment at NMSU, provided that the department head, dean and executive vice-president and provost and faculty appointee agree at the time of the appointment. The details of any agreed upon credit for prior service shall be documented unambiguously in the appointment letter, including but not limited to: the years of prior service being credited, the resulting length of the probationary period, the timing for any Mid-Probationary Review, and the expectation relating to the timing for the tenure application process. Dependent upon the nature of the prior experience or the qualifications of the faculty applicant, examples which would justify granting credit for prior service include and are not limited to:

1. When tenure has been granted to a candidate at another institution, tenure may be accorded at the time of initial appointment to the university.
2. Up to three years of prior probationary service at another institution may count towards the six-year probationary period at NMSU.

B. **Extension of the Probationary Period**: When requested in writing within one year of the qualifying event by the faculty member, leaves of absence can lead to postponement of the tenure decision date; however, modifications in that date require the recommendation of the department head and dean and the approval of the executive vice-president and provost. Faculty responsibilities may be negotiated when the extension is requested. An extension may be granted up to two times, so long as the total pre-tenure probationary period does not exceed eight years. Exceptions to this limit can be made under extraordinary circumstances if approved by the executive vice-president and provost. Candidates must be held to the same standards of performance when the probationary period has been extended as candidates whose probationary period was not extended. The probationary period may be extended, upon written request, under the following circumstances:

1. **Leave of Absence without Pay**: Probationary faculty members may request in writing a leave of absence without pay, usually not to exceed one academic or fiscal year. Prior to initiating the leave, affected faculty may request in writing a probation extension of one year.
2. **Military Leave of Absence**: Involuntary induction into the armed forces entitles the faculty member to a leave of absence to cover the term of military service. Such leave constitutes valid grounds for requesting an extension of the tenure decision date. Similarly, a faculty member's voluntary participation in a military reserve program may lead to periodic or prolonged absence sufficient to affect the faculty member's performance (e.g., annual active duty training, or active duty training or participation when a reserve unit is called to active duty) that constitutes valid grounds for extension of the tenure decision date.
3. **Medical Leave of Absence**: Probationary faculty members with a serious personal illness or providing prolonged, substantive care for a chronically ill family member may request in writing an extension of the tenure decision date, usually for one year.
4. **Family Leave of Absence or Exceptional Family Responsibilities**: Upon written request, probationary faculty members who become parents will receive a one-year automatic extension of the tenure

decision date. Such an extension does not require that the faculty member take a leave of absence.

5. **Catastrophic Events**: Probationary faculty who have experienced a catastrophic event such as a fire or flood or who must aid family members in such situations may request in writing an extension of the tenure decision date.
6. **Jury Duty**: Prolonged jury service, when significantly affecting a faculty member's performance, constitutes a valid reason to petition for extension of the tenure decision date.
7. **Other, as Negotiated**: Extensions for other reasons may be negotiated.

C. **Faculty Request for Early Tenure Review**: A Request for Early Tenure Review is initiated in writing by the faculty member, and requires positive recommendations from the Department Promotion and Tenure Committee (as determined in the review of progress toward promotion and/or tenure), department head, and dean; followed by approval by the Executive Vice President and Provost. If an Early Tenure Review application is not successful, the candidate's contract will not be renewed, consistent with the provisions of **ARP 9.40 – Tenure Track Faculty – Pre-Tenure Period**.

D. **Changes Between Full and Part Time Employment**:

1. Tenure track faculty members whose regular appointments are less than 0.50 FTE do not accumulate probationary time toward tenure.
2. When a full-time, tenure-track position becomes part-time, the time in rank is prorated based on full-time equivalent (FTE). As with full-time faculty, the maximum probationary period for part-time faculty members is the equivalent of six FTE years, with the tenure decision to be made before the end of the six full-time years of service. For example, a tenure-track candidate with a 0.50 FTE appointment must apply for tenure at the end of the 11th year. Part-time Tenure-Track Faculty must be held to the same standards of performance relative to FTE as full-time faculty. If denied tenure, a faculty member on part-time appointment has only one year of continued part-time employment beyond the denial.
3. When recurring state funding is available, a tenure-track, part-time faculty member may apply for a full-time tenure track position and, if hired, apply earned tenure-track FTE from prior years toward tenure and promotion in the full-time position.
4. Tenured, full-time faculty members approved to move to part-time status may retain tenure. Retention of tenure in such a case requires the written request of the faculty member, positive recommendations from the department head and dean; followed by approval of the

executive vice-president and provost. While this rule encourages departments to accommodate reasonable requests for part-time appointment, part-time appointments are not an entitlement, and requests may be turned down. Pending availability of funding and the approval of the department head, dean and executive vice-president and provost, the faculty member may return later to full-time tenured status.

## PART 3: MID-PROBATIONARY REVIEW

Tenure-track faculty members may request, or individual units may require, a formal Mid-Probationary Review. The Mid-Probationary Review is an opportunity for feedback on the Tenure-Track Faculty member/future candidate's performance and is used to identify specific activities to enhance the candidate's progress toward promotion and tenure. The review is formative, intended to assist Tenure-Track Faculty in achieving promotion and tenure and should take into account the allocation of work effort during the three years reviewed and be based upon the Principle Unit's criteria. The outcome must not be used as a determinant for setting merit pay or for contract continuation decisions. Principal units should refer to **ARP 9.34**, Part 3 for additional information

## PART 4: JOINT APPOINTMENT (WITH DUAL PRIMARY RESPONSIBILITIES)

In appropriate circumstances, a faculty member may be appointed in two departments or in two colleges. The faculty member seeking a joint appointment must obtain a signed Memorandum of Understanding (MOU) signed by the department head and dean of each involved unit. **The MOU must state the agreement between the involved units in the following areas**:

A. The units involved and the intended tenure home. It must identify the Principle Unit where tenure resides or will reside if applicable. In joint appointments with centers or institutes, the tenure home must reside in a Principle Unit. In joint appointments with two or more academic units, one unit must be designated, by mutual agreement, as the tenure home.
B. Expectations for workload and Allocation of Effort, including specific responsibilities distributed between the involved units.
C. The term of appointment and any other conditions of employment.
D. Provisions explaining the process for the annual performance evaluation

and promotion and tenure reviews, renewal of the joint appointment, and salary increases. Each unit must provide recommendations in annual, probationary, tenure, and promotion reviews.

# PART 5: ROLES AND RESPONSIBILITIES IN PROMOTION OR TENURE REVIEWS

## A. Candidate

1. Maintains a curriculum vitae and a cumulative personal record of the activities and accomplishments affecting the application for promotion and/or tenure.
2. Reviews the personal Portfolio (organized per Part 12 of this Rule) in relation to the criteria for promotion and/or tenure and seeks guidance from senior faculty and the department head.
3. In accordance with college procedures, requests and provides materials required in the mid-probationary periodic review.
4. Applies for tenure by submitting to the department head in the spring of the candidate's fifth year, or other time as previously negotiated, their Portfolio including both the Core Document and Documentation File in the format as specified in Part 6 of this rule. If a faculty member/candidate does not apply for tenure in the fifth year, or extended year as appropriate, and does not submit a resignation letter as contemplated by this rule, the faculty member's employment will terminate with the expiration of the current annual "Temporary Contract".
5. Provides the department head with a written list of potential External Reviewers from which letters of evaluation may be requested. The candidate may provide the department head with a list of people they wish not to be reviewers. This item only applies to tenured and Tenure-Track Faculty.
6. Requests extensions of the probationary period in accordance with Part 2. B. above.
7. Has, upon receipt of the recommendation of the Department Promotion and Tenure Committee and of the head, five working days to add to the Portfolio any correction of factual errors in either recommendation.
8. Has, upon receipt of the recommendations of the College Promotion and Tenure Committee and of the dean, five working days to add to the Portfolio any correction of factual errors in either recommendation.
9. In accordance with Part 7 below, requests that the review process be terminated at any time prior to review by the executive vice-president and

provost.

## B. Department Head

1. Establishes and monitors a process for a tenured faculty to mentor the candidate in developing the best case for promotion and/or tenure.
2. Provides leadership in the collaborative writing and maintenance of department promotion and tenure policy.
3. Provides initial information, timelines, and copies of all written guidelines regarding promotion and tenure expectations and policies to all new and continuing faculty members on a regular basis. Also informs Tenure-Track Faculty of the rights to due process, appeal and informal processes for conflict resolution in promotion and tenure (See **Combined P & T Rules Through 08/12/2018** or **Combined P & T Rules After 8/12/2018**).
4. In the annual performance reviews of Tenure-Track Faculty, includes written details relating to assigned duties (i.e. the teaching and advising, scholarship and creative activity, service, extension and outreach and apportionment). The reviews also include separate statements addressing progress toward tenure and toward promotion including steps that should be taken to strengthen the faculty member's case.
5. Provides leadership in establishing agreed upon department guidelines for an annual review of Tenure-Track Faculty by the department's promotion and tenure committee. This review is separate from, and independent of, the department head's annual review of each faculty member.
6. Assists Tenure-Track Faculty who have completed five academic semesters or its part-time equivalent in preparing for an optional Mid-Probationary Review.
7. In mitigating circumstances, explores with the candidate the need for a time extension. (*See* Part 2. B. above) With the approval of the candidate, seeks permission from the dean to extend the probationary period.
8. Provides assistance and guidance to faculty who are applying for promotion and/or tenure. Reviews the Portfolio of applicants to ensure its completeness and compliance with Part 6 of this rule, and, where needed, makes recommendations for improvement.
9. The department head, in consultation with the Promotion and Tenure Committee, will select a list of potential External Reviewers and will contact them. The department head must contact at least one reviewer from the candidate's list provided that they are qualified to be reviewers based on the unit's policy. The department head must ensure those contacted to review the candidate's Portfolio do not have a conflict of interest. If there is a perceived conflict of interest the department head needs to justify why the reviewer has no conflict. If the department head contacts somebody on

the candidate's list of people they wish not to be a reviewer, the head needs to justify the importance of selecting the reviewer.

10. Sees that the department promotion and tenure committee submits recommendations for tenure and for promotion for all candidates.
11. Writes an independent evaluation/recommendation concerning each candidate's case for promotion and/or tenure in relation to the criteria for promotion and tenure. This recommendation may be in support of or against supporting either promotion or tenure, or both. It should address the strengths and weaknesses, and level and nature of accomplishments of the candidate.
12. Provides candidates written or electronic copies of the recommendation of the department promotion and tenure committee and of the recommendation of the department head. This notification must occur prior to passing the promotion and/or tenure application on to the dean and college promotion and tenure committee.
13. Places the department head's recommendation in the candidate's Portfolio.

## C. Department Promotion and Tenure Committee

1. Examines and reads the Portfolio of each candidate.
2. Evaluates the candidate according to department promotion and/or tenure standards.
3. Considers the candidate's department assignment and role apportionment as specified in the candidate's position description and Allocation of Effort Forms.
4. Performs an annual review of Tenure-Track Faculty following departmental guidelines and forwards results to department head and dean or equivalent administrator. This review is separate from, and independent of, the department head's annual review of each faculty member.
5. Makes recommendations to the department head pertaining to faculty members who are seeking promotion and/or tenure based on the candidate's Portfolio and departmental criteria.
6. Records in each candidate's Portfolio the committee's vote totals. (*See* **ARP 9.34**, Part 3 Q. and S.)
7. Places the committee's recommendation in the candidate's Portfolio.
8. Participates in the optional Mid-Probationary Review process, providing formative feedback to candidates.

## D. College Promotion and Tenure Committee

1. Examines and reads the Portfolio of each candidate, including the department head's letter and the department's promotion and tenure

committee's recommendation.
2. Evaluates the candidate according to the department's promotion and tenure standards, in conjunction with those of the college.
3. Considers the candidate's department assignment and role apportionment as specified in the candidate's position description and Allocation of Effort forms.
4. Makes recommendations to the dean pertaining to faculty members who are seeking promotion and/or tenure.
5. Records in each candidate's Portfolio the committee's vote totals. (*See* **ARP 9.34**, Part 3 Q. and S.)
6. Places the committee's recommendation in the candidate's Portfolio.
7. Participates in the optional Mid-Probationary Review process, providing formative feedback to candidates.

## E. Dean, Community College President

1. Ensures that a college-specific promotion and tenure policy is written and periodically revised and that the policy complies with university policy, rules, and procedures; and has been approved by the Executive Vice President and Provost.
2. **Assures that each department has**:
    a. Current promotion and tenure guidelines that comply with college and university policies and include date of version.
    b. A mentoring process for Tenure-Track Faculty.
    c. A system of annual faculty performance evaluations.
3. In consultation with college faculty establishes policy for the constitution of a College Faculty Promotion Committee.
4. Recommends extensions of the probationary period.
5. Provides oversight for the optional Mid-Probationary Review program.
6. Makes independent recommendations pertaining to promotion and tenure. **To do this, considers**:
    a. Candidate's Core Document and the Documentation File
    b. Recommendations of the department promotion and tenure committees
    c. Recommendations of the department heads
    d. Recommendations of the college promotion and tenure committees.
7. Notifies candidates, in writing and electronically, of the recommendations of the College Promotion and Tenure Committee and of the dean. This notification must occur prior to passing the promotion and tenure applications and associated recommendations on to the executive vice-president and provost.
8. Places the dean's recommendation in the candidate's Portfolio.

9. Meets with the executive vice-president and provost regarding promotion and tenure cases.

## F. Executive Vice-President and Provost

1. Ensures that each college and each department has, and periodically updates, promotion and tenure policies that comply with university policy, rules and procedures.
2. Approves requests to extend the probationary period.
3. Meets with deans regarding promotion and tenure cases.
4. Makes an independent decision pertaining to promotion and tenure. To do this, consider:
    a. Candidate's Core Document and, if requested, the Documentation File
    b. Recommendations of the department promotion and tenure committees
    c. Recommendations of the department heads
    d. Recommendations of the college promotion and tenure committees
    e. Recommendations of the dean.
5. Passes promotion and tenure decisions on to the Chancellor.
6. Notifies candidates in writing of the decision.
7. Provides for annual training sessions for promotion and tenure committee members, department heads, and deans.

# PART 6: PORTFOLIO PREPARATION BY CANDIDATE

In accordance with department and college guidelines, the candidate is responsible for submitting a promotion and tenure Portfolio. (*See* **ARP 9.30**, Part 2, Definition R.) When appropriate and agreed to by the candidate and all reviewing committees and officials, the Portfolio maybe submitted as an electronic pdf formatted file(s), provided a method for secure transmission of confidential documentation has been established.

A. **Core Document**: The college guidelines shall specify the inclusion of the following Core Document elements in this order. The combination of items 4-6 shall not exceed 50 pages:
    1. A routing form developed by the college with spaces for the required signatures.
    2. A cover sheet indicating the candidate's name, current rank, department and college.
    3. Any written documentation generated throughout the promotion and

tenure process, including the numerical vote counts of the promotion and tenure committee(s).

4. A table of contents.
5. Candidate's executive summary.
6. A curriculum vitae.
7. Annual performance evaluations for the period under review, including the Allocation of Effort statements, the goals and objectives forms, written statements submitted by the faculty member as a part of the annual performance evaluations, the supervisor's written comments, and any response made by the candidate to the supervisor's written comments. Numerical rankings, ratings, or vote counts should be removed. (*See Also* **ARP 9.31 – [Effective AY 18/19] Annual Performance Evaluation – Regular Faculty**)
8. Principal Units' mission statements.
9. Letters from External Reviewers.

B. **Documentation File**: Supplementary materials provided by the candidate related to the areas of faculty activity. This material is not routed beyond the College Promotion and Tenure Committee, but is available for review.If this is an application for tenure, the candidate is to include evidence of contributions since starting at NMSU, plus evidence from other institutions if credit for prior service is applicable. If this is an application for promotion, then the candidate is to include evidence of contributions since the last promotion or tenure review.

## PART 7: WITHDRAWAL OF PORTFOLIO BY CANDIDATE FROM FURTHER CONSIDERATION

A. **Voluntary Withdrawal from Consideration**: A candidate may withdraw from consideration at any time prior to the final signature of the executive vice-president and provost. A candidate shall prepare a letter requesting withdrawal from further consideration. The letter shall be transmitted to the dean or comparable administrator. All documents shall be returned to the candidate and nothing relating to the application for promotion and/or tenure shall be placed in the candidate's personnel file.

B. **Withdrawal in Fifth Year of Service**: If the candidate is in the fifth year of service, withdrawal from consideration for tenure must be accompanied by a letter of resignation submitted to the dean or comparable administrator no later than the end of the fifth-year contract period. The resignation shall be effective no later than the end of the sixth-year contract period. If a faculty member does not apply for tenure in the fifth year, or extended

year as appropriate, and does not submit a resignation letter as contemplated by this rule, the faculty member's employment will terminate with the expiration of the current annual ("Temporary") contract.

## PART 8: OUTCOMES

A. **For full-time tenure-track candidates**:
   1. If the decision is to award tenure, the executive vice-president and provost will send a Contract of Employment (Continuous Appointment) Form through the dean or comparable administrator and the department head to the candidate.
   2. If the decision is to not award tenure, the department head will give a signed Contract Status Form to the candidate for signature acknowledging notification of non-renewal.

B. **For part-time tenure-track candidates, in addition to the provisions for full-time tenure-track candidates**:
   1. If the decision is to award tenure, it is for the FTE as stated in the initial contract or as negotiated.
   2. If the decision is to not award tenure, a faculty member has only one year of continued part-time employment beyond the denial.

C. **For all candidates**:
   1. If the decision is in favor of promotion, the effective date is at the beginning of the ensuing contract year.
   2. If the decision is in favor of promotion, it shall be the policy of the university that all promotions shall include a salary increase, irrespective of other salary increases.
   3. In the decision is not in favor of promotion, the executive vice-president and provost will inform the candidate in writing.
   4. The executive vice-president and provost is responsible for informing the Chancellor of the recommendations of the department head, college dean, or comparable administrator and the decision of the executive vice-president and provost.
   5. The executive vice-president and provost will prepare an official list of promotion and tenure decisions for distribution to relevant deans, comparable administrators, the vice-president for administration and finance, and the assistant director of human resource services.
   6. Tenure-track faculty members whose probationary contract is not renewed and who have another year before the termination of that contract do not submit a promotion and tenure Portfolio during their final year. If the non-renewal is being appealed on the basis of failure

to follow procedure or discrimination, then the appellant may complete a packet and have it held in suspension until the grievance is resolved. If the individual is successful in the appeal, the Portfolio will be considered by the parties involved in the promotion and tenure process.

## PART 9: RIGHT TO SEEK REDRESS FOR VIOLATION OF EVALUATION, PROMOTION, OR TENURE RULES

A. A faculty member who believes that the university, college or department's promotion and tenure policy or procedures have been violated, adversely affecting the faculty member's evaluation, promotion, or tenure may file a grievance pursuant to **ARP 10.60 Faculty Grievance Review and Resolution**.
B. **ARP 10.60** provides an opportunity for mediation, and in the event mediation is not successful, review by a panel of faculty peers which hears evidence presented and issues factual findings and recommendations on the issue of whether or not the rules governing evaluation, promotion or tenure were violated.
C. A finding that there was not substantial compliance with the applicable Rules on Faculty Evaluation, Promotion, and Tenure (ARP 9.30 – 9.36), or a finding that any violation materially and adversely affected the outcome for a faculty member will be grounds for relief.
D. If the grievance involves actions taken by the executive vice president and provost due to the provost's role in the promotion and tenure process, the grievance decision will be issued by the NMSU system chancellor; otherwise, the executive vice president and provost issues the final decision in faculty grievance matters.

## PART 10: TIMELINE OF PROCEDURAL STEPS FOR PROMOTION AND TENURE REVIEW PROCESSES

Each college shall determine a timeline for conducting promotion and tenure reviews compatible with due dates issued by the executive vice president and provost. The dates indicated here are suggested guidelines; the provost may alter these by further directives; and/or 12-month appointments may require a different time schedule.

A. **Spring**: The department head notifies potential candidate of eligibility for

promotion and/or tenure review and provides electronic copies of departmental, college, and university policies, rules and procedures related to promotion and tenure. Department promotion and tenure committee reviews the Portfolio of each faculty member and in accordance with college policies reports to the department head indicating the progress towards promotion and/or tenure as well as the strengths and weaknesses in each of the areas required for promotion and tenure.Department head informs the candidate in writing of the department promotion and/or tenure committee recommendations.

B. **June, July, August**: The candidate with support from the department and college prepares the candidate's Portfolio. (*See* Part 6 of this rule)The Portfolio must be completed by the end of July to allow for review by External Reviewers in August.
C. **September**: The department head makes the completed Portfolio, including letters from External Reviewers (or Letters of Support at the community colleges) available to the Department Promotion and Tenure Committee. The Portfolio can only be amended hereafter in accordance with department and college guidelines.
D. **October**: The Department Promotion and Tenure Committee considers the completed Portfolio of the candidate.
E. **October – December**: The college dean or comparable administrator transmits the Department Promotion and Tenure Committee and department head reports and numerical ballot results to the College Promotion and Tenure Committee.The College Promotion and Tenure Committee reviews the department head's and the Department Promotion and Tenure Committee's recommendations.The College Promotion and Tenure Committee informs the dean or comparable administrator if a department fails to follow department and/or college procedures.
The College Promotion and Tenure Committee reviews the Portfolios of all Tenure-Track Faculty members no later than their sixth year of service unless Part 2 (Flexibility in Tenure Track) of this Rule applies.

   The College Promotion and Tenure Committee submits a written recommendation on the candidate to the department head, candidate, and dean or comparable administrator in accordance with the college's promotion and tenure policy.

F. **January – February**: The college dean or comparable administrator reviews the candidate's Portfolio, makes a recommendation, and informs the candidate in writing of the recommendations of the College Promotion and Tenure Committee and the dean or comparable administrator.The college dean or comparable administrator transmits to the executive vice-president

and provost all recommendations including numerical votes.

G. **March – April**: The college dean or comparable administrator meets with the executive vice-president and provost to review each candidate. The executive vice-president and provost's decision is indicated in writing.The executive vice-president and provost informs the Chancellor of the recommendations of the department head, college dean, or comparable administrator and the decision of the executive vice-president and provost.
H. **April – May**: Final notifications of decisions are sent through the executive vice-president and provost, dean or comparable administrator, and department head to the candidate.The executive vice-president and provost prepares an official list of promotion and tenure decisions for distribution to relevant deans, comparable administrators, the vice-president for administration and finance, and the assistant vice president for human resource services.The dean or comparable administrator notifies the department head, who in turn notifies the faculty member.
I. **July**: Promotion and tenure decisions become effective.

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 9 | HR - Performance Evaluation, Promotion and Tenure

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 05/10/2017

## Related

**Cross-Reference:**
**ARP 9.30 – [Effective AY 18/19] Overview of Faculty Evaluation, Promotion and Tenure Rules; Definitions; Periodic Rules Review**

**ARP 9.31 – [Effective AY 18/19] Annual Performance Evaluation – Regular Faculty**

**ARP 9.32 – [Effective AY 18/19] Faculty Promotion and Tenure: Purpose and Guiding Principles**

**ARP 9.33 – [Effective AY 18/19] Faculty Promotion and Tenure: The Professorial Ranks**

**ARP 9.34 – [Effective AY 18/19] Faculty Promotion and Tenure Committees; Common Elements Required in the Principal Unit Policies**

**ARP 9.36 – Faculty Post Tenure Review**

**ARP 9.40 – Tenure Track Faculty – Pre-Tenure Period**

**ARP 10.60 – Faculty Grievance Review and Resolution**

**Combined P & T Rules Through 08/12/2018 (PDF)**

**Combined P & T Rules After 08/12/2018 (PDF)**

**Revision History:**
2017 Recompilation, formerly part of Rule 5.90
05/10/2017 Adoption approved by Chancellor with 08/13/2018 Effective Date
10/21/2015 former Policy 5.90 replicated by Board of Regents as initial Rule 5.90
07/15/2008 Amendments to Policy 5.90 ratified by Board of Regents, with 08/01/2008 effective date
Prior revision history as Policy 5.90 not available

---

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 9.36 – Faculty Post Tenure Review

arp.nmsu.edu/9-36

**(fka 5.87)**

## PART 1: INTRODUCTION **(fka 5.87.1)**

The Post-Tenure Review rule ensures that all tenured faculty members will receive an annual review and that those with either exceptionally fine performance or serious deficiencies in one or more areas will be identified. Special achievement shall be rewarded in a manner determined by each college or community college campus. For a tenured faculty member who receives two successive unsatisfactory annual reviews with identified and uncorrected serious deficiencies, this rule provides a mechanism to establish a remedial program for correcting the deficiencies. The legislation to which this rule responds is particularly concerned with the quality of teaching, and that fact shall be considered when taking any action under this rule. In particular, faculty whose teaching needs improvement will be urged to take advantage of "programs designed to assist faculty members in enhancing their teaching skills." (NMSA 1978, Section 21-1-7.1)

## PART 2: **ANNUAL REVIEWS (fka 5.87.2)**

A. **Annual Review for Tenured Faculty**: Tenured faculty members annually participate in and receive an extensive examination of their teaching, their research and scholarly output, and their service as part of the annual review process conducted in accordance with **ARP 9.31 – [Effective AY 18/19] Annual Performance Evaluation – Regular Faculty**. This annual review document shall be labeled the Post Tenure Review of each tenured faculty member. This Post Tenure Review shall weight the three areas of teaching, scholarly work, and service in proportion to the percentage each category is given in the faculty member's allocation of effort for a given year.
B. **Post Tenure Review Not Applicable for Full Time Administrators**:

Administrators who hold tenured faculty rank are reviewed on the performance of their faculty duties (teaching, research, and service). Administrators who have no assigned faculty duties will not be reviewed under this rule.

## PART 3: MORE COMPLETE POST-TENURE REVIEWS **(fka 5.87.3)**

A. **Notification to Faculty Member about Deficiency**: If, in the judgment of a superior, the annual review for a tenured faculty member shows a serious deficiency in the performance of that faculty member, the superior shall inform the faculty member in writing of the deficiency as well as recommend actions the faculty member might take to address the issue.
B. **Deficiency Not Rectified**: If the deficiency or deficiencies continues for two or more years and if the faculty member has not taken the corrective actions, one of two possible courses of action may ensue:
    1. The faculty member may request that the superior submit the record of poor performance and suggested actions to the other tenured faculty members of the unit for consideration in a more complete review, or
    2. If the faculty member does not request the review, the superior may initiate such a review with the concurrence of a majority of the tenured faculty in the academic unit.
C. **Goal of and Procedures for More Complete Review**: The more complete review shall have the aim of identifying strengths and weaknesses of the faculty member in teaching, research, and service.
    1. This review shall be undertaken by the departmental promotion and tenure committee.
    2. If there is no departmental promotion and tenure committee for that unit, the review will be undertaken by the equivalent college-level promotion and tenure committee as specified **ARP 9.35 – [Effective AY 18/19] Faculty Promotion and Tenure Reviews: Procedural Guidelines and Timeline** of this manual.
    3. Student evaluations must be considered when evaluating the faculty member's teaching, along with other factors. Student evaluations considered as part of performance evaluations, may not include numerical ratings, letter grades, or other "scores" of specific aspects of the course, the course as a whole, or of the instructor.
    4. If the reviewers conclude that the faculty member's performance is not seriously deficient, the faculty member shall be so informed and a

statement of the finding placed in the faculty member's personnel file.

5. If serious deficiency is found, a specific remedial program shall be developed in consultation with the faculty member that includes procedures, criteria for evaluating progress, and a reasonable timetable. If the faculty member's teaching needs improvement, such a program might include participation in programs offered by the Teaching Academy, mentoring by a recipient of teaching awards, intensive study of videotaped classroom sessions, etc. When research and publication needs improvement, collaboration with another faculty member and participation in workshops on publishing might be indicated. However, in accordance with NMSA 1978, Section 21-1-7.1, part E(1), any remedial effort can be no shorter than two years in length.

## PART 4: ENHANCEMENT PROGRAM **(fka 5.87.4)**

Whether or not a tenured faculty member accepts the recommendation to participate in a teaching or scholarly work enhancement program, and whether or not the member performs well in the program, the faculty member's performance will be judged on subsequent teaching and scholarly work.

## PART 5: FREQUENCY OF REVIEW **(fka 5.87.5)**

The more complete review shall not be initiated for any tenured faculty member more frequently than once every five years.

## PART 6: PERSISTENT TEACHING DEFICIENCIES **(fka 5.87.6)**

If a tenured faculty member's teaching deficiencies are considered by the executive vice president and provost to be very serious and to have been uncorrected at the conclusion of the agreed time period, and further, if there is evidence that the faculty member's teaching performance has deteriorated since the award of tenure such that the faculty member's teaching performance is now typically unsatisfactory, the executive vice president and provost shall recommend loss of tenure for the faculty member in question.

If tenure is to be revoked, the university shall follow the processes specified in **ARP 10.50 – Faculty Alleged Misconduct Investigation, Discipline and Appeals Processes** for Involuntary Termination of a Continuous Contract, subject to the safeguards of due process.

## PART 7: **REPORTING (fka 5.87.7)**

Every year, each academic dean and the chief community college executive officer of each campus shall report to the executive vice president and provost.

A. The number of tenured faculty receiving annual evaluations,
B. The number receiving unsatisfactory evaluations,
C. The number of tenured faculty who have been the subject of a more detailed peer review,
D. The number of faculty who have participated in a remedial program as a result,
E. The results of those programs,
F. And the number of faculty whose tenure have been revoked

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 9 | HR - Performance Evaluation, Promotion and Tenure

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 05/20/2019

## Related

**Cross-Reference:**
**ARP 9.31 – [Effective AY 18/19] Annual Performance Evaluation – Regular Faculty**

**ARP 9.35 – [Effective AY 18/19] Faculty Promotion and Tenure Reviews: Procedural Guidelines and Timeline**

**ARP 10.50 – Faculty Alleged Misconduct Investigation, Discipline, and Appeals Processes**

**Revision History:**
05/20/2019 Amendment [FSP Prop 16-18/19] approved by Chancellor
2017 Recompilation, formerly numbered as Rule 5.91 (AY18/19) and Rule 5.87 (Pre-AY18/19)
09/08/2006 Policy adoption ratified by Board of Regents

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 9.40 – Tenure Track Faculty – Pre-Tenure Period

arp.nmsu.edu/9-40

The pre-tenure period, renewed by contract one year at a time, (sometimes also referred to as the probationary, trial, or provisional period) for personnel with or without previous experience agreed upon from other institutions of higher education will ordinarily not exceed six years. At the discretion of the administration, the pre-tenure period may be shortened. Thereafter, there shall be a presumption of regular employment and the requirements of just cause and due process for any dismissal from service.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 9 | HR - Performance Evaluation, Promotion and Tenure

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 10/17/2017

## Related

**Cross-Reference:**
**Revision History:**

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 9.41 – Tenure Track Faculty – Procedure for Award of Continuous Contract upon Award of Tenure

arp.nmsu.edu/9-41

## A. Change to Continuous Contract

The department head initiates the Contract Status Form to accomplish the change from temporary to continuous contract. All recommendations for tenure must be accompanied by notification to the executive vice president and provost from the dean of the result of the faculty committee vote. When tenure is awarded, it is awarded in the unit that initiated the request for tenure (continuous contract). No temporary appointment can become continuous without the official action of the university administration.

## B. Continuous Contracts

A continuous appointment is not a matter of right, but is made after the pre-tenure period has been completed successfully, providing the individual's services are needed. Such an appointment is made by the issuance of a new contract at the time of continuous appointment or shortly thereafter, and the contract becomes the abiding instrument governing employment, except that the terms may be modified from time to time by endorsement. Continuous contracts are issued by the Office of the Executive Vice President and Provost following receipt of an approved Contract Status Form. Continuous contracts are not reissued until there is a promotion in rank. Each spring an official contract amendment (salary letter) is issued by the president's office which informs the faculty member of final performance evaluation and annual salary for the ensuing year. Once a faculty member has been appointed to a continuous contract, that faculty member will retain continuous contract status even though the faculty member accepts appointment at less than full time.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 9 | HR - Performance Evaluation, Promotion and Tenure

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 10/17/2017

## Related

**Cross-Reference:**
*(See Also* ARP 9.32 and/or ARP 9.30 through 9.35)

**Revision History:**

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 9.42 – Tenure Track and Tenured Faculty – Resignation Notice

arp.nmsu.edu/9-42

**A.** Any tenure track faculty member intending to resign shall give written notice to the administration at the earliest time possible, but in no case later than 30 days after receipt of written notification of the terms of the next year's contract, or three months prior to the start of the following academic year, whichever is later, except when mutually agreed upon by the individual and the administration. The faculty member should inform the department head in writing. The department head will inform the dean, who in turn will notify the executive vice president and provost. The department head should then submit a terminating Personnel Action Form at the earliest possible date.

**B.** If a faculty member dies, their estate will receive compensation for all unused annual leave accrued at the time of death, up to a maximum of 52 working days of leave.

**C.** If a person listed by the promotion and tenure committee does not wish to be considered for promotion or tenure, the person must so indicate to the department head in writing. However, if the person is in the fifth year of tenure-track service, withdrawal from consideration for tenure must be accompanied by written notice of resignation effective at the end of the sixth year of service (this notice must be received by the department head before the end of the fifth year of service).

**D.** The section above on voluntary termination of temporary contracts also applies to continuous contract employees.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 9 | HR - Performance Evaluation, Promotion and Tenure

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 10/17/2017

## Related

**Cross-Reference:**
**Revision History:**

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 9.43 – Tenure Track Faculty – Process for Non-Renewal of Annual Contract

arp.nmsu.edu/9-43

As a result of evaluating performance and annual contracts, it may be necessary not to renew an annual contract.

A. During the trial period, non-renewal of an annual contract may be without implication of criticism or specification of cause.
B. The reason for non-renewal will be stated, if so requested by the faculty member subject to non-renewal. The reason is only to be communicated if requested by the faculty member. The choice of the manner of notification (verbally or in writing) is to be made by the faculty member. The faculty member must request the reason for non-renewal prior to the end of the faculty member's contract.
C. Prior to non-renewal, the department head, or comparable administrator, must consult with the promotion and tenure committee of the department before any recommendation of non-renewal is forwarded to the dean. The consultation is to be in the form of a meeting and the department head or comparable administrator must identify the faculty member(s) at risk for non-renewal. In addition, the department head or comparable administrator must provide the committee with all relevant information, to the extent allowed by law, related to the non-renewal.
D. **Notification of the non-renewal is made in writing according to the following schedule**:
    1. for faculty members in their first year of service at this university – 3 months or more before the end date of the annual contract;
    2. for faculty members in their second year of service at this university – 6 months or more before the end date of the annual contract;
    3. for faculty members who will have 3 or more years of service at this university at the time of nonrenewal – 1 year or more before the end date of the annual contract.
E. A Contract Status Form must be processed by the department head for the nonrenewal of the annual contract prior to the deadlines established for notification. The employee should acknowledge receipt of such notification by dating, signing, and returning the Contract Status Form.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 9 | HR - Performance Evaluation, Promotion and Tenure

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 10/17/2017

## Related

**Cross-Reference:**
**Revision History:**

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 9.60 – Administrative Reviews

arp.nmsu.edu/9-60

Each dean or community college executive officer is responsible for preparing, scheduling, delivering and retaining appropriate administrative reviews of associate deans, department heads, directors and their equivalent. In addition to annual performance evaluations, administrative reviews are scheduled to occur every few years to determine an incumbent's performance as an administrator. Administrative reviews are often coordinated by a third party (such as NMSU's Institutional Research) and may include written evaluation by both internal and external constituents.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 9 | HR - Performance Evaluation, Promotion and Tenure

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 10/15/2017

## Related

**Cross-Reference:**
**Revision History:**

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 9.61 – Administrative Review of Deans and Community College Presidents

arp.nmsu.edu/9-61

## A. Policy

1. Academic deans and community college presidents are due to be reviewed within six months of the third anniversary of their first appointment to their appointment as academic administrator and every fifth anniversary thereafter, under the criteria prepared by their supervisor.
2. Reviews may be conducted at a shorter interval, at the discretion of the supervisor.
3. In exceptional circumstances, faculty or staff may petition the supervisor of the academic dean or community college president to conduct an administrative review outside of the normal review cycle.

## B. Procedures

1. Prior to each review, the supervisor will request a written and/or oral evaluation of the person(s) being reviewed from the faculty, staff and any other relevant constituencies.
2. The person under review may prepare and distribute a statement of professional accomplishments during the review period.
3. The appropriate supervisor will do the following:
    a. Review and assess the information received.
    b. Compile a summary report, redacting the sources of the information received.
    c. Transmit and discuss the summary report with the academic administrator subject of the administrative review.
    d. Discuss the summary report with the relevant faculty and staff.
    e. For deans, transmit a copy of the summary report to the chair of the Faculty Senate.
    f. Transmit a copy of the summary report to the president, when administrative review is not conducted by the Chancellor.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 9 | HR - Performance Evaluation, Promotion and Tenure

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 10/15/2017

## Related

**Cross-Reference:**
**Revision History:**

*[Amendment recommended by the Administrative Council 07.27.11; approved by the Board of Regents 08.22.11]*

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 9.62 – Administrative Review of Associate Deans and Community College Academic Officers

arp.nmsu.edu/9-62

## A. Policy

1. Associate deans and community college academic officers will be reviewed within six months of the third anniversary of their first appointment to the position, and at least every five years thereafter, under the criteria prepared by their appropriate supervisor.
2. Reviews may be conducted at a shorter interval, at the discretion of the appropriate supervisor. In exceptional circumstances, faculty or staff may petition the appropriate supervisor to conduct an administrative review outside of the normal review cycle.
3. Prior to each review the appropriate supervisor will request a written evaluation of the associate dean or community college executive officer from each faculty and staff member in the unit and obtain any other pertinent input from relevant constituencies (either on campus or off campus).

## B. Procedures

The appropriate supervisor will do the following:

1. evaluate the information
2. create a summary
3. conduct an evaluation session with the individual being evaluated
4. share the summary with the relevant faculty and staff
5. transmit a summary to the executive vice president and provost

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 9 | HR - Performance Evaluation, Promotion and Tenure

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 10/19/2017

## Related

**Cross-Reference:**
**Revision History:**

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 9.63 – Administrative Review of Department Heads or Community College Equivalent and Community College Division Deans or Equivalents

arp.nmsu.edu/9-63

## A. Policy

1. Department heads or equivalent and community college division deans or division heads will be reviewed by the appropriate supervisor within six months of the third anniversary of their first appointment to the position, and at least every five years thereafter, under the criteria prepared by their appropriate supervisor.
2. Reviews may be conducted at a shorter interval, at the discretion of the appropriate supervisor.
3. In exceptional circumstances, faculty or staff may petition the appropriate supervisor to conduct an administrative review outside of the normal review cycle.

## B. Procedures

1. Prior to each review, the appropriate supervisor will request a written evaluation of the individual being reviewed from each faculty and staff member in the unit and obtain any other pertinent input from relevant constituencies (either on campus or off campus).
2. The appropriate supervisor will do the following:
    a. evaluate the information
    b. create a summary
    c. conduct an evaluation session with the individual being evaluated
    d. share the summary with the relevant faculty and staff
    e. transmit a summary to the executive vice president and provost or community college executive officer

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 9 | HR - Performance Evaluation, Promotion and Tenure

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 10/22/2007

## Related

**Cross-Reference:**
**Revision History:**

*[Amended by Proposition 12-06/07 passed by the Faculty Senate 02.01.07; ratified by the Board of Regents 10.22.07]*

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 9.64 – Administrative Review of Directors or Equivalents of Academic School, Center or Program

arp.nmsu.edu/9-64

## A. Policy

1. The director of an academic school is reviewed using the same process as used for administrative reviews of department heads or equivalent.
2. Directors of centers and programs are reviewed by their respective supervisors no later than within six months of the third anniversary of their first appointment to the position and at least every five years thereafter, under the criteria prepared by their appropriate supervisor.
3. Reviews may be conducted at a shorter interval, at the discretion of the appropriate supervisor.
4. In exceptional circumstances, faculty or staff may petition the appropriate supervisor to conduct an administrative review outside of the normal review cycle.

## B. Procedures

1. Prior to each review the appropriate supervisor will request a written evaluation of the individual being reviewed from each faculty and staff member in the unit and obtain any other pertinent input from relevant constituencies (either on campus or off campus).
2. The appropriate supervisor will do the following:
    a. evaluate the information
    b. create a summary
    c. conduct an evaluation session with the individual being evaluated
    d. share the summary with the relevant faculty and staff
    e. transmit a summary to the dean and executive vice president and provost

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 9 | HR - Performance Evaluation, Promotion and Tenure

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 10/19/2017

## Related

**Cross-Reference:**
**Revision History:**

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 9.81 – Employee Recognition

arp.nmsu.edu/9-81

## A. Rule Statement

New Mexico State University recognizes the most important and valuable asset any organization has is its employees. In appreciation for the dedication and accomplishments of staff members, the Employee Recognition Program (ERP) is established to reward and recognize those who demonstrate the professionalism and behaviors consistent with the mission of NMSU and to celebrate achievements that have an exceptional impact on the organization. Departments, colleges and divisions are encourage to develop their own programs to complement established university -level* programs.

This program is exclusive of merit/performance adjustments provided during the annual salary process.

*** Established University – Level Employee Recognition Programs**:

- Patricia Christmore Faculty Teaching Award
- Fort Bliss Federal Credit Union Award
- Ralph B. Crouch Award
- Donald Roush Award
- Robert L. Westhafer Award
- Frank Bromilow Staff and Teaching Awards
- University Research Council Award
- Stephen W. and Robert E. Roberts Memorial Staff Award
- Dennis Darnall Award
- El Paso Energy Award

Additional university-level Employee Recognition Programs may be developed by the Office of Human Resource Services with approval by executive administration. Programs will be designed to recognize exceptional accomplishments for faculty and staff subject to specific achievement within specified criteria directly attributable to faculty and staff members.

To ensure fairness and equity, all ERP's must include an application and/or nomination/ recommendation process, defined selection criteria and a process which includes the review and recommendation of a group or a committee. If a donor serves on the committee for which his/her donation is under consideration, the donor must be in the minority of the representation on the committee in order to avoid tax consequences.

All employees must have an equal opportunity to compete for bonuses and awards based on the eligibility criteria of an approved program. The Office of Human Resources will review and approve all departmental ERP's, with the exception of awards provided from donated funds. Because of the university's status as a public employer, tax issues and state regulations, rewards are defined as either a **bonus** or an **award**.

Exceptions to the following guidelines must be approved by the Office of the Executive Vice President and Provost.

## B. Bonus

A bonus is defined as recognition for exceptional performance of duties and responsibilities above and beyond the normal scope of an employee's assigned duties and responsibilities. A bonus is a one-time payment that is paid from instruction and general (I&G) finds, state appropriations and/or any appropriate restricted or unrestricted funding source. The following guidelines apply to departmental bonus programs:

1. A minimum of $100.00 (net) up to a maximum of $500.00 (net) may be provided for any individual payment.
2. More than one recipient per department and/or division may receive a bonus depending upon the availability of funding and eligibility.
3. Bonuses paid from restricted/unrestricted funds must comply with the granting agency guidelines.
4. Applicable taxes will be deducted from the gross amount.
5. Bonuses will be processed using a One Time Payment Request.

## C. Award

An award is recognition of an exceptional achievement, work ethic and/or service which significantly contributes to an organizational unit. Awards may be paid from any appropriate restricted or unrestricted funding source and/or donated funds. The following guidelines apply to departmental bonus programs:

1. There are no dollar restrictions for awards provided from donated funds.

2. A minimum of $100.00 (net) up to a maximum of $500.00 (net) may be provided for any individual recipient of an award paid from restricted/unrestricted funds.
3. More than one recipient per department and/or division may receive an award depending upon the availability of funding and eligibility.
4. Awards paid from restricted/unrestricted funds must comply with the granting agency guidelines.
5. To avoid the appearance of a conflict of interest, services or merchandise (or certificates for such) from vendors or other non-university businesses shall not be solicited or accepted as donations by departments for use as awards. As state employees are not entitled to receive gifts, certificates for such awards shall be called "award certificates".
6. If donated funds are the source of an award, the Office of University Advancement must be consulted prior to the presentation of the award.
7. Awards paid from restricted/unrestricted funds and donated funds are taxable and are processed through a One Time Payment Request.

NMSU encourages nomination of faculty and staff for external (non-NMSU) awards. These awards are subject to the granting agency's criteria and guidelines and will not require a central office review.

## Details

**Scope:** NMSU Las Cruces campus
**Source:** ARP Chapter 9 | HR - Performance Evaluation, Promotion and Tenure

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 10/17/2017

## Related

**Cross-Reference:**
**Revision History:**

*[Amendment approved by the Administrative Council 07.08.08; adoption of amendment ratified by the Board of Regents 07.15.08]*

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 9.85 – Endowed Faculty Chairs and Professorships

arp.nmsu.edu/9-85

Appointment of individuals to the following endowed chairs/professorships requires the approval of the cognizant dean and also the executive vice president and provost:

- The Gerald W. Thomas Chair in Food Production and Natural Resources
- Jose Fernandez Chair in Field Crop Production
- Telemetering and Telecommunication Chair
- The Tombaugh Professorship in Astronomy

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 9 | HR - Performance Evaluation, Promotion and Tenure

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 10/19/2017

## Related

**Cross-Reference:**
**Revision History:**

© 2017 New Mexico State University - Board of Regents

# Chapter 10 | HR – Discipline and Dispute Resolution

## Subsections in Chapter 10


- 10.01 – Due Process
- 10.10 – Staff Disciplinary Action/Involuntary Termination
- 10.20 – Staff Grievances/ Disciplinary Appeals
- 10.50 – Faculty Alleged Misconduct Investigation, Discipline, and Appeals Processes
- 10.60 – Review of Faculty Grievances

New Mexico State University
All About Discovery!

# 10.01 – Due Process

arp.nmsu.edu/10-01

Due process opportunities are available to all regular employees. These policies and procedures are designed to provide an objective consideration of employee grievances. Employees are provided peer group representation on review boards and committees in order to ensure fair and impartial hearings of their complaints. Within each appeal procedure, notice is given as to who makes the final decision. These decisions are final and cannot be further appealed within the university structure. The Board of Regents will periodically review these policies but will not hear individual grievances. The appeals procedures are designed to resolve grievances at the lowest level possible. Prior to formal appeal, all parties should exhaust every opportunity to settle the grievance through administrative review at the department or college level.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 10 | HR - Discipline and Dispute Resolution

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 09/29/2017

## Related

**Cross-Reference:**
**Revision History:**

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 10.10 – Staff Disciplinary Action/Involuntary Termination

arp.nmsu.edu/10-10

## A. Inability to Perform Essential Job Functions

A supervisor may, after having obtained the approval of the appropriate dean/vice president and the Office of Human Resource Services, require an employee to be examined by a medical doctor (or other health provider) for the purpose of determining the employee's ability to perform essential job functions. The cost of the examination will be borne by the university. An employee may be terminated if unable to perform the essential job functions of a position.

## B. Absence Without Authorization

A staff employee who is absent from work without proper authorization or notification for a period of 1 working day or if less than 1 working day for more than one occurrence, may be terminated. Such action will be considered as just cause for termination and processed as an involuntary termination. If subsequent investigation and information reveals extenuating circumstances, the employee may use annual leave, sick leave, or leave without pay for the days absent and may be subject to other disciplinary action.

## C. Disciplinary Action (Non-Probationary Regular Employees)

The supervisor may request action appropriate to the nature and severity of the offense or unacceptable performance and has the following options available. Items #2, #3, and #4 require prior approval from the Office of Human Resource Services.

1. Oral Reprimand or Warning: Supervisor prepares a memorandum of record for departmental file.
2. Written Reprimand, Warning, or Notification of Unacceptable Performance: Supervisor prepares a memorandum to the employee, obtains approval from the

Office of Human Resource Services, and forwards a copy to the Office of Human Resource Services for inclusion in the employee's file.

3. Suspension or Demotion: (See Section G below, Just Cause) Suspension of exempt employees will be for a minimum of 1 working day within a work week.
4. Involuntary Termination: (See Section G below, Just Cause).

## D. Immediate (Temporary) Removal

The appointing authority may, with approval of the appropriate dean or vice president, and Office of Human Resource Services, immediately remove and place an employee on administrative leave with pay. This action may be taken when it is in the best interest of the university or it is necessary to remove an employee from the work site. Requests to place an employee on involuntary leave without pay must be submitted to the Office of Human Resource Services.

## E. Termination of Involuntary (Probationary, Temporary and Emergency Hires)

Probationary, temporary, occasional and emergency hire employees may be terminated without cause by providing at least 24 hours notice. The termination of any such employee requires the prior approval of the appropriate dean or vice president and assistant vice president for human resource services. Probationary, temporary, occasional, or emergency hire employees have no entitlement or expectation to continued employment during or beyond the probationary or appointment period.

## F. Termination – Demotion and Suspension (Involuntary) of (Non-Probationary Regular Employees)

A supervisor may, after obtaining prior approval of the appropriate dean or vice president and the assistant vice president for human resource services, terminate, demote, or suspend an employee for just cause. All such actions will be submitted to the Office of Human Resource Services for review and prior approval. Normally, exempt employees will be given at least 10 working day's notification of the proposed action. Nonexempt employees will receive at least 5 working days. However, the supervisor, with prior approval of the cognizant dean or vice president, and Office of Human Resource Services, may immediately remove and place an employee on administrative leave with pay during the

notification period. (See Section D above, Immediate (Temporary) Removal) After obtaining the necessary approvals, the supervisor may issue a notice of proposed disciplinary action. The notification will contain the following:

1. The type of action being proposed.
2. The specific acts resulting in the proposed action.
3. The effective date of the proposed action.
4. A summary of the information used in support of the proposed action.
5. A statement that the employee may respond to the action and allegations in writing or request a review hearing within 2 working days of receipt of the notice of proposed action.
6. A statement that if the employee does not respond to the proposed notice or request a review hearing, the proposed action will become final and effective on the proposed date.
7. A statement that a post-action grievance may be filed with the Office of Institutional Equity/OIE and Employee Management Services Office within 15 working days of receipt of the proposed notice (if the employee does not chose to respond to the notice or request a review hearing) or within 15 working days of receipt of the notice of final determination.

Should an employee respond in writing to the proposed notice and not request a review hearing, the supervisor will consider the employee's response and issue a final determination, after consultation with the Office of Human Resource Services. Should an employee request a review hearing, the immediate supervisor (or designee) of the individual issuing the proposed notice, and a representative of the Office of Human Resource Services, will meet with the employee within 2 working days of the employee's request. The employee may bring a representative to the hearing. If the representative is an attorney, the employee must so inform the human resources representative to allow the university time to arrange for its general counsel to be present at the hearing. The university reserves the right to have the general counsel present at any and all hearings. A final determination will be issued by the immediate supervisor (or designee) of the individual issuing the proposed notice, after consultation with the Office of Human Resource Services. Time limits specified may be changed should requests be made and/or circumstances warrant a revision.

## G. Just Cause (Non-Probationary Regular Employees)

Employees may be terminated, demoted, or suspended for just cause which may be generally described as any conduct, action, or inaction, arising from, connected with, or impacting on the employee's work, whether on or off duty, that is inconsistent with the employee's obligations to the employer; or conduct reflecting a disregard of the employer's interests, policies or procedures. Just cause includes, but is not limited to, inefficiency,

unacceptable performance, incompetence, misconduct, negligence, insubordination, or conviction of a felony or misdemeanor under the provisions of the Criminal Offender Employment Act (Section 28-2-1, et seq., NMSA 1978). Although impossible to cite an all-inclusive list of actions which constitute just cause, examples include but are not limited to:

1. Falsification of documents.
2. Threatening, assaulting, or abusive behavior towards a supervisor, student, employee, guest or customer of the university.
3. Sexual harassment of an employee, student, guest or customer of the university on or off campus which may explicitly or implicitly affect an employee's performance or unreasonably interferes with a person's employment or academic endeavors.
4. Jeopardizing the safety or health of an employee (including one's self), student, guest or customer of the university.
5. Dishonesty or intentional fabrication of events.
6. Negligent, incompetent, inefficient or unacceptable performance of duties.
7. Willful disregard of reasonable directives or policies or a defiant attitude of noncompliance toward regulations, directives or policies applicable to an employee.
8. Conduct that interferes with the efficient operation of the university.
9. Inability or unwillingness to perform the duties required of a position.
10. Possession or use of alcohol or illicit drugs, reporting to work under their influence, or being under their influence while on the job.
11. Possession of drug paraphernalia or stolen property.
12. Conviction or admission of a felony or certain misdemeanors.
13. Careless, negligent, improper, unauthorized, or malicious use of, or theft of, property, equipment, or funds.
14. Abuse of privileges.
15. Failure to report for work or to timely report justifiable reason for absence to the department head or immediate supervisor.
16. Repeated tardiness or poor attendance.
17. Misconduct which adversely affects the interest or reputation of the university or its employees.
18. Any repetition of offenses which resulted in a reprimand, warning, demotion, notification of unacceptable performance or suspension.
19. Job abandonment.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 10 | HR - Discipline and Dispute Resolution

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 09/29/2017

## Related

**Cross-Reference:**
(*See also* Rule 4.05.11 for appeal procedures)

**Revision History:**

[*Amendment approved by the Administrative Council 09.09.08; adoption of amendment ratified by the Board of Regents 07.29.09*]

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 10.20 – Staff Grievances/ Disciplinary Appeals

arp.nmsu.edu/10-20

## A. Hostile Work/Academic Environment

A hostile environment claim may be based on offensive conduct or behavior that is sufficiently severe and/or pervasive to create an abusive work/academic environment or related activities. See below for definition.

## B. Nondiscrimination-Based Harassment

The university prohibits any unlawful practice of harassment in work place, classroom environments, including related activities, which has the effect of creating a hostile environment based on disputes arising from nondiscrimination matters. Responsibility for such matters is designated to the appropriate directors, department heads, deans, vice presidents or vice provosts. On the occasion that nondiscrimination harassment is reported or discovered during an investigation by the assistant director of Employee Management Services, a referral to the appropriate official may be made for further review and action. Examples of nondiscrimination harassment may include conduct and behavior that is sufficiently severe and/or pervasive to create an abusive work or academic environment. (See RPM 3.25 Equal Opportunity and Prohibition of Unlawful Discrimination and corresponding administrative rules and procedures at ARP 3.25 – Discrimination, Harassment and Sexual Misconduct on Campus)

## C. Grievance Exceptions

Grievable items do not include basic management rights such as, but not limited to, the right to manage, direct and assign employees, determine staffing patterns, rate of pay and/or tasks to be performed. Any action or complaint commenced in any state or federal agency or court (or before any state or federal employee or hearing officer) may, at the discretion of the executive vice president and provost result in a stay of any pending or filed internal proceeding (grievance, appeal, etc.) filed by or on behalf of an employee of the Board of Regents. Upon termination of the external proceeding the executive vice president and

provost will review the status of the internal proceeding in the light of the results of the external proceedings. If, in the executive vice president and provost's opinion, further action is required, the internal proceeding may continue in accordance with established procedures. If no further action is deemed necessary, the internal proceeding will cease

D. Nondiscrimination-Based Grievance Procedures: Employees are encouraged to resolve issues through discussion with the immediate supervisor(s) and may contact the Office of Employee Management Services for consultation on nondiscrimination matters at any time. If resolution is not attained, a formal or informal grievance may be filedwith the Office of Employee Management Services. Employees shall be free to discuss matters with the Office of Employee Management Services and file grievances without fear of reprisal.

**[BYPASS–** If the complainant wishes to bypass STAGES ONE and TWO and go directly to STAGE THREE, a letter requesting a Human Resources board hearing may be addressed to the assistant director of the Office of Employee Management Services (or designee) within 10 working days of the occurrence. In addition to the letter, the complainant will be required to complete the appropriate grievance form and provide supporting documents. These documents will be provided to the party charged, who will prepare a response and submit any supporting documents to Office of Employee Management Services (or designee) within 10 working days of receipt of complainant's documents. Employee Management Services (or designee) will provide the complainant with a copy of materials submitted by the party charged and provide the Human Resources Board with copies of all appropriate documents.]

## STAGE ONE

### A. Informal Complaint:

The complainant may elect to pursue an informal complaint by meeting with the Office of Employee Management Services within 15 working days of occurrence of the grievable item. During the informal stage, the complainant may elect not to self identify. The remedy may include seminars, exchange of information, newsletter articles, memorandums, administrative review, or counseling. Informal settings (where the parties are identified) may also include mediation at the departmental level or other direct communication with both parties. If the informal filing does not result in resolution, the complainant may exercise the formal grievance process within 5 working days of completing the informal complaint process.

### B. Formal Grievance:

Completion of the Office of Employee Management Services Grievance Form is required within 15 working days after the occurrence or within 5 working days following the informal complaint process. The complainant will include the basis of the grievance which identifies

specific employment practices and procedures. The grievance will be accepted or denied in writing by the Office of Employee Management Services (or designee). If denied, the complainant may appeal in writing to the Office of General Counsel (or designee) within 5 working days of receipt of written denial letter. If accepted, the party charged will be provided with a copy of the complaint documents and will be extended 10 working days to respond. Additional time may be granted on a case-by-case basis by written request. The complainant will be provided a copy of the response, and may amend the initial grievance within 2 working days of receiving the response. If amended, the party charged will also be extended 2 working days to provide any additional documentation. The Office of Employee Management Services (or designee) will investigate relevant issues, secure appropriate statements, and prepare a report for administrative review.

### C. Disclosure of Witness Statements:

All witness statements are the responsibility of the person filing or responding to the grievance(s). Witness statements provided by either complainant or the party charged must be provided to the opposing party at the time the statements are presented to the Office of Employee Management Services. The Office of Employee Management Services may conduct any further investigation deemed appropriate, which may include additional witness statements. The result of that investigation is the work product of the investigator and not subject to disclosure.

## STAGE TWO – Administrative Review

The assistant vice president for human resource services (or designee) will review the report provided by the Office of Employee Management Services and render a decision. The determination letter will be transmitted in writing by the Office of Employee Management Services (or designee) to the complainant, party charged and appropriate administrators. If the complainant or respondent is not in agreement with the decision, new or additional documentation may be provided through the Office of Employee Management Services to the assistant vice president for human resource services (or designee) within 5 working days of receiving the determination letter. Following the review of the new or additional information, a final decision will be issued from the assistant vice president for human resource services (or designee) within 5 working days of receipt of the information to the complainant and party charged.

## STAGE THREE – Board Review:

[The Human Resources Board may be convened to address: terminations, suspensions, demotions, and related issues resulting in reduction/loss of wages and/or appeals of overall unsatisfactory, needs improvement, or does not meet expectations performance evaluation ratings for regular non-probationary staff employees.]If the complainant does not agree with

the assistant vice president for human resource service decision in STAGE TWO, a request to convene the Human Resources Board may be submitted in writing to the Office of Employee Management Services within 5 working days of receiving the decision from the assistant vice president of human resource services. The complainant and party charged will be required to provide all documentation to be reviewed by the Human Resources Board according to procedures cited herein. The Human Resources Board will hold a hearing and issue a recommendation to the executive vice president and provost (or designee) within 5 working days of said hearing. Should the Human Resources Board require additional time, the chair will notify the complainant, party charged, and executive vice president and provost. The executive vice president and provost (or designee) will issue a final decision in writing to both complainant and party charged within 5 working days of receiving the Human Resources Board's recommendation. STAGE THREE concludes the appeal process for non-probationary staff employees at the university.

## HUMAN RESOURCES BOARD OPERATING PROCEDURES

### A. The Complainant is Responsible for Providing The Office of Employee Management Services (or Designee) with:

1. A written request for a Human Resources Board hearing within 5 working days of completing STAGE TWO or within 10 working days if STAGES ONE and TWO are bypassed.
2. A list of witnesses (by name, title, employer, telephone number, and order of appearance at the hearing). It is the complainant's responsibility to secure permission from and arrange for attendance of named witnesses prior to submittal.
3. Seven copies of all documentation to be reviewed during the hearing, plus an additional copy for each individual named in #2 above.
4. The name(s) of legal counsel and/or other representative(s) who will be in attendance at the hearing. Legal counsel or representative(s), who are not university employees, may only actively participate in the hearing process for appeals involving termination, demotion, or suspension. Cross examination of witnesses will be permitted through the chair. Any questions for parties charged/complainant(s) may be channeled through the chair, who will determine the relevance and appropriateness of the question.
5. A written request for an open or closed hearing.
    a. **Open Hearing** – an open hearing is one in which the public may attend, but may not participate in the hearing. In an open hearing, witnesses may stay only after completing their testimony.

b. **Closed Hearing** – a closed hearing is one in which only the complainant and party charged may be present to offer testimony to the Human Resources Board. In a closed hearing, witnesses will be present only during their testimony.

6. A request for special accommodation(s), if needed.

## B. The Party Charged is Responsible for Providing to the Office of Employee Management Services (or Designee) with:

1. A list of witnesses (by name, title, employer, telephone number, and order of appearance at the hearing). It is the responsibility of the parties charged to secure permission from and arrange for attendance of named witnesses prior to submittal.
2. Seven copies of all documentation to be reviewed during the hearing, plus an additional copy for the complainant.
3. The name(s) of legal counsel and/or other representative(s) who will be in attendance at the hearing. Legal counsel or representative(s), who are not university employees, may only actively participate in the hearing process for appeals involving termination, demotion, or suspension. Cross examination of witnesses will be permitted. Parties charged will not be subjected to cross examination.
4. A written request for an open or closed hearing.
5. A request for special accommodation(s), if needed.

## C. The Office of Employee Management Services (or Designee) is responsible for ensuring that:

1. The Human Resources Board has been notified in writing of the hearing.
2. The parties charged, complainant(s) and Human Resources Board members are advised in writing of the date, time, and location of the hearing.
3. The complainant and party charged are informed in writing of time constraints of 2 hours each to present material, including witness testimony and rebuttal. (Additional time may be considered, if requested).
4. Grievance procedures and exchange of statements are provided to both the complainant and party charged at least 48 hours prior to the hearing.
5. A pre-hearing orientation is provided to the Human Resources Board for purposes of receiving documents, instructions, and appropriate policies and procedures.
6. An agenda is prepared for the hearing and time constraints are monitored.
7. An official tape recording of the hearing is available, upon written request, to the complainant and/or party charged.
8. Reasonable accommodations are made, upon request.

## D. The Chair is Responsible for ensuring that:

1. An open or closed hearing is stated for the record during the hearing.
2. Instructions at the hearing are recorded for the record.
3. The nature of the charge is clearly understood.
4. All issues presented during testimony are relevant to the charge. It is the chair's prerogative to determine when issues have been clarified and may terminate the process accordingly.
5. Additional documentation (if provided by either party after documents have been submitted) is pertinent and reasonable.
6. Both parties are extended an opportunity for an executive Session at the end of the Human Resources Board hearing (not recorded). An executive session provides the complainant and party charged with an opportunity to present any relevant extenuating or mitigating matters after closing statements, not to exceed 5 minutes each. During an executive session, only the voting board members and party requesting executive session will be present.

## E. The Human Resources Board is responsible for ensuring that:

1. An open or closed hearing is designated after considering the sensitivity of the issues, in conjunction with any specific requests from the complainant or party charged.
2. A conflict of interest situation is called any time a Human Resources Board member's relationship or association (personal or business) with either the complainant or party charged may interfere with the process.
3. A written Human Resources Board recommendation is forwarded to the executive vice president and provost within 5 working days following the hearing.

## F. Nonexempt Human Resources Board

The Nonexempt Human Resources Board members are restricted to two consecutive terms of 3 years each. The Nonexempt Human Resources Board will hear grievances from nonexempt employees only. Representatives include:

1. **Chair**: Dean selected by the executive vice president and provost to serve for 3 years. The previous chair will serve as alternate and assume all duties of the chair in case of absence. [Note: The same chair will serve on both nonexempt and exempt boards.]
2. **Member**: Nonexempt employee and alternate selected from and by the NMSU Employee Council to serve for 3 years.
3. **Member**: Nonexempt employee and alternate selected from and by the Institutional Equity/EEO Advisory Committee to serve for 3 years.
4. **Member**: Nonexempt employee and alternate appointed by the Chancellor to serve for 3 years.

5. **Member**: The Office of Employee Management Services (or designee), permanent, ex officio member.
6. **Member**: Assistant Vice President for Human Resource Services permanent, ex officio member.

### G. Exempt Human Resources Board

Exempt Human Resources Board members are restricted to two consecutive terms of 3 years each. The Exempt Human Resources Board will hear grievances from exempt employees only. Representatives include:

1. **Chair**: Dean selected by the executive vice president and provost to serve for 3 years. The previous chair will serve as alternate. [Note: The same chair will serve on both nonexempt and exempt boards.]
2. **Member**: Exempt employee and alternate selected from and by the NMSU Employee Council to serve for 3 years
3. **Member**: Exempt employee and alternate selected from and by the Office of Institutional Equity/EEO Advisory Committee to serve for 3 years.
4. **Member**: Exempt employee and alternate appointed by the Chancellor to serve for 3 years.
5. **Member**: The Office of Employee Management Services (or designee), permanent, ex officio member.
6. **Member**: Assistant vice president for human resource services, ex officio member.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 10 | HR - Discipline and Dispute Resolution

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 09/29/2017

## Related

**Cross-Reference:**
**Revision History:**

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 10.50 – Faculty Alleged Misconduct Investigation, Discipline, and Appeals Processes

arp.nmsu.edu/10-50

## A. Purpose

To establish policy, rules and procedures by which allegations of serious faculty misconduct, or inability to perform essential functions of the job, may be addressed equitably, expeditiously and without violating the principles of academic freedom or due process.

## B. Scope

This rule applies when serious misconduct, or inability to perform essential functions of the job, is reasonably suspected of any tenured, tenure track, or regular, non-tenure track faculty within the NMSU System.

1. This rule does not apply to situations involving unsatisfactory job performance covered by other policies regarding the quality of teaching/advising, research/scholarship or outreach/ extension or service. (**See ARP 9.36 [Pre- AY 18/19] Faculty Post-Tenure Review; 5.90 Promotion and Tenure; 5.98 Tenure Track and Tenure policies**)
2. This rule does not apply to situations involving the voluntary or involuntary retreat to a faculty position from an appointment as academic administrator, because such appointments are within the discretion of an executive administrator.
3. This rule does not apply to situations involving non-renewal of the annual faculty contract.

## C. Rule Administrator

The Office of the Executive Vice President and Provost, jointly with the Office of Human Resource Services, administers these rules and procedures.

## D. Definitions and Roles

1. **"Clear and Convincing Evidence":** Clear and convincing evidence means evidence that makes the fact to be proven highly probable or reasonably certain. To prove a fact by clear and convincing evidence is evidence stronger than a "preponderance" and yet less than "beyond a reasonable doubt;" for evidence to be clear and convincing, it must instantly tilt the scales in the affirmative when weighed against the evidence in opposition and the fact finder's mind is left with an abiding conviction that the evidence is true. (See Also subsection K. 3.)
2. **"Day"**: When a time limit refers to "day", it refers to business rather than calendar days (Monday through Friday), and excludes official university holidays.
3. **"Dean"**: When the rule refers to dean, it will include the equivalent ranks to dean, for academic units other than a college or library. It also will mean the designee serving in lieu of the dean, who may be designated by the Faculty Senate chair and assistant vice president for human resources, in consultation with the Office of the General Counsel, due to a conflict of interest on the part of the dean or dean equivalent. The dean serves as the informal pre-determination hearing officer. (See subsection L., below).
4. **"Investigative Administrator"**: When the rule refers to the "investigative administrator", it refers to the individual who performs or coordinates the confidential investigation into the allegations against the faculty member, including issuance of the investigative report. (See subsection H. below). The investigative administrator also consults with the Office of Human Resource Services and/or Office of General Counsel regarding the appropriate level of corrective action warranted, if any; prepares the notice of proposed corrective action; and presents the matter to the pre-determination officer (the dean). (See subsections H- K below.) The investigative administrator will usually be the immediate supervisor, or academic department head. It may also mean someone designated to serve in lieu of the immediate supervisor, in the event of a conflict of interest. (i.e. if the investigative administrator is implicated in the alleged misconduct.) In cases involving alleged discrimination in violation of federal or state law or university policy, rules or procedures, it means a representative from the Office of Institutional Equity. In cases involving alleged embezzlement or other white collar type criminal activity, the investigation may be conducted by law enforcement, the Office of Internal Audit or other expert in the field. In these instances, the investigative administrator will coordinate with the involved supervisor, and HRS in order to determine the facts and the appropriate corrective or disciplinary action.
5. **"Preponderance of the Evidence"**: Preponderance of the evidence means the greater weight of the evidence. To prove a fact by the greater weight of the evidence

means one must be persuaded that what is sought to be proved is more probably true than not true. Evenly balanced evidence is not sufficient. (See Also subsection K. 3.)

## E. Overview of Rule

This section lists generally the steps which shall guide faculty and administration in the rare instance that serious misconduct, or inability to perform essential job functions, is reasonably suspected of a faculty member. More detail regarding each process is provided throughout this rule.

1. **Administrative Leave**. [ no time frame indicated and will vary] (See Section G.)
2. **Internal Investigation**. [no time frame indicated and will vary based on complexity] (See Section H.)
3. **Assessment of Appropriate Corrective Action**. [no time frame indicated and will vary] (See Section I.)
4. **Assembly of Evidence and Notice of Intended Corrective Action**. [no time frame indicated] (See Section J.)
5. **Pre-Determination Hearing (Decision by Dean)**. [20 days or less from receipt of request for hearing, unless extension] (See Section M.)
6. **Post-Determination Appeal Hearing** (Decision by Executive Vice President and Provost). [45 days or less from receipt of Notice of Appeal, unless time extension] (See Section N.)
7. **Final Review** (Decision by Chancellor). [20 days or less from receipt of Request for Final Review, unless time extension] (See Section O.) A flow chart indicating the steps in the investigative, corrective action and appeal processes involved in the case of serious misconduct or inability to perform essential job functions alleged against a faculty member may be viewed at **ARP Appendix 10.50-A**.

## F. Alternative Dispute Resolution

At any stage in the processes described herein, if mutually agreed to between the parties, the disputed matter may be stayed as the parties attempt to resolve the dispute through an alternate method of dispute resolution, including but not limited to the following methods: mediation, settlement facilitation, or other negotiated resolution outside of the formal hearing processes provided for herein.

## G. Administrative Leave

When a faculty member is reasonably suspected or otherwise accused of serious misconduct constituting just cause under this rule, the faculty member may be placed on paid administrative leave pending a confidential investigation, in accordance with the following protocol:

1. These decisions will be made on a case by case basis by the department head or equivalent supervisor, in conjunction with the Office of Human Resource Services, and based upon the facts alleged in each matter, including the potential risk of harm to students, others or the institution.
2. Approval from the assistant vice president of human resource services or designee is required to place any faculty member on paid administrative leave or to relocate, or to reassign job duties, pending the investigation. The dean will be notified about the pendency of the internal investigation, but not about the factual details.
3. In lieu of paid administrative leave, a faculty member may be temporarily relocated to an alternate work environment or be assigned to perform alternate job duties, provided such temporary job modification will not in any way impede the investigation.
4. A faculty member placed on paid administrative leave shall remain available for communications from NMSU, and otherwise be ready to report to work upon request. If the faculty member has a need to be absent during a period of administrative leave, the faculty member shall obtain the appropriate approval.

## H. Confidential Investigation

The allegations, and any defense raised by the faculty member in response to the allegations, shall be investigated fully and fairly, within a reasonable amount of time, and as confidentially as possible; based upon the circumstances involved in each matter.

1. The investigative administrator shall consult with the assistant vice president of human resources or designee and/or the university general counsel for guidance and support relating to the performance of the internal investigation.
2. The faculty member accused shall be provided notice of the charges at the appropriate time during the investigation, which may be when the investigation begins, or may be later, depending upon the nature of the allegations. The faculty member shall be given an opportunity to respond to the charges during the investigation process.
3. The investigation shall be documented with factual findings and supporting evidence. The evidence may consist of witness statements or summaries, documents, audio or video recordings or photographs, or other exhibits. The investigative report, including supporting documentation or other evidence, shall be delivered to the assistant vice president of human resource services. The investigative administrator shall retain the

investigative work papers, investigative report and supporting documentation or other evidence in a confidential and secure location.

4. The investigative administrator shall confer with the assistant vice president for human resource services and/or the office of university general counsel to decide whether or not the findings warrant corrective administrative action.
5. As soon as practicable, the charged faculty member shall be informed generally regarding the results of the investigation.
6. If the faculty member is exonerated by the investigation, then no documentation referencing the investigation shall remain in the official personnel file, unless requested by the faculty member.
7. If corrective action is going to be pursued, the faculty member will be provided a copy of the investigative report and access to the supporting documents at the time that the corrective action is formally proposed.
8. In order to protect the positions and reputations of those persons who, in good faith, report reasonably suspected misconduct, the university prohibits retaliation in any form to be taken against the reporter or any person who cooperates in the investigative process. A complaint of suspected retaliation will also be cause for the initiation of a separate internal investigation to be conducted in coordination with the Office of Human Resource Services, and if substantiated, will be grounds for disciplinary action, up to and including termination of employment.
9. If the investigative report reflects that the alleged misconduct was not substantiated, the university will make efforts to restore the reputation of the faculty member, to the extent feasible and desired by the faculty member. Additionally, and depending upon the circumstances, the university may initiate a separate internal investigation in the event the investigative report indicates that the initial report of suspected misconduct or any testimony given as part of the internal investigation may have been intentionally falsified. If deliberate falsification of such a complaint or testimony is substantiated, it will be grounds for disciplinary action against the false reporter, up to and including termination of employment.

## I. Just Cause Required

Just Cause, capable of being proven by the standard of proof set forth at subsection K.3, is required before suspension without pay, reduction in salary, or involuntary dismissal may be imposed. Just cause includes dishonest behavior; gross or habitual neglect of professional responsibilities; willful violation of NMSU policy, rule or procedures; use of any improper influence to secure a promotion or privileges for individual advantage; or any other serious misconduct causing or creating the potential for harm to person, property or the institution.

Just Cause may also be unrelated to any misconduct on the part of faculty, and could include a loss of licensure and/or clinical admitting privileges required for the performance of one's academic duties; or the medical inability to perform essential functions of the job.

## J. Administrative or Corrective Action

Corrective or other administrative action may be taken for serious misconduct or inability to perform the essential functions of one's job, if substantiated by the applicable standard of proof through the investigative fact finding process.

1. The types of administrative action anticipated by this rule include one or more of the following: written warning, mandatory attendance at training, suspension without pay, reduction in salary, and involuntary dismissal.
2. The range of corrective action which may be imposed for misconduct is not intended to require progressive discipline; rather, it is intended to allow the severity of the corrective action to match the seriousness of the policy, rule or procedural violation or other misconduct. The corrective action, if any, to be imposed will vary depending upon the severity of the misconduct substantiated by the investigative findings.
3. The investigative administrator and the assistant vice president of human resource services shall coordinate regarding the appropriate level of corrective action or other administrative action, and if it does not warrant suspension without pay, reduction in pay, or involuntary dismissal, shall decide whether other corrective or administrative action is appropriate.
4. If suspension without pay, reduction in salary or involuntary dismissal is supported by the investigative report and recommended by the investigative administrator, the due process hearing requirements outlined in the remainder of this rule shall apply. See Also **Appendix ARP 10.50-A**.

## K. General Description of Due Process

A recommendation to dismiss from employment or to reduce salary attributable to regular faculty employment are serious corrective actions implicating one's property rights, which is why just cause and due process are required before such action may be taken.

1. Due process requires fair and timely hearing processes, before an impartial hearing official or body. The faculty member charged with misconduct and facing serious disciplinary action is entitled to a predetermination hearing, at which the relevant facts are presented by the parties, and determined by a hearing officer to be accurate prior to proceeding with the proposed corrective action. This ensures that the faculty member has had an adequate opportunity to present a defense to the claims and the

evidence; it also ensures that the decision makers have an accurate understanding of the facts underlying the recommendation.

2. The faculty member also has the right to a post-determination appeal to the executive vice president and provost, as well as the right to request a final review by the Chancellor.
3. At the pre-determination hearing and any subsequent appeal, the burden of proving just cause by the applicable standard of proof is on NMSU. The standard of proof shall be clear and convincing evidence for all infractions, except for disciplinary action proposed for discrimination proscribed by federal and state law, which matters are investigated by the university's Office of Institutional Equity; the burden of proof when discrimination constitutes the grounds for which the disciplinary action is being taken shall be preponderance of the evidence. (See subsections D.4. and D.5.)

## L. Time Deadlines and Extensions

The pre-determination, appeal and final review processes will be conducted as expeditiously as possible.

1. At the request from a party, a one-time extension of the time deadline may be granted, after notice to the other party and consideration of that party's position relative to the request.
2. If the request for the time extension is from a hearing Faculty Appeals Board member, the chair of Faculty Senate may grant a reasonable extension, with notice to all parties.
3. A second or subsequent request for time extension from any party or from a Faculty Appeals Board member will only be granted in exceptional cases, after consideration of the basis for the request and the respective positions of the parties. The Faculty Appeals Board or Faculty Senate chair may deny a request for extension, in the best interest of the institution, even if no party opposes it.

## M. Pre-Determination Process

[25 days or less from date of issuance of notice letter or memo, unless time extension granted]

1. **Notice of Proposed Administrative Action**. The investigative administrator or other uninvolved supervisor shall issue a letter or memo to the faculty member notifying the grounds for the recommended corrective action, and attach a copy of the investigative report. If for some reason, there is not a document entitled, "investigative report", the charges against the faculty member and the evidence substantiating the charges

shall be provided. Guidelines for investigative reports are available in the Office of Human Resource Service or the Office of the General Counsel. The notice letter or memo shall explain the faculty member's right to attend an informal pre-determination hearing, and be delivered by hand-delivery or by certified U.S. mail, return receipt requested.

2. **Right to Attend Pre-Determination Hearing**. [5 days for faculty to confirm attendance at hearing] A predetermination hearing will be convened by the dean or Dean's Advisory Committee, as appropriate (See 3 a. below), in order to review the recommended action together with the evidence, and to hear the faculty member's position in response thereto. Within five (5) days of the documented receipt of the written notice of proposed administrative action, the faculty member shall notify the dean's office in writing whether or not the faculty member will attend the hearing and/or be represented by legal counsel. The faculty member shall also indicate whether or not the use of the Dean's Advisory Committee is requested. (See 3. a. below) If the faculty member chooses to not attend the informal fact finding hearing, a determination will be rendered in the faculty member's absence.
3. **Informal Pre-Determination Hearing**: [15 days or less] An informal fact finding hearing shall be heard by either the dean or by the Dean's Advisory Committee, within fifteen (15) days from the date of the notice letter or memo, as follows:
    a. **Option to Utilize a Dean's Advisory Committee**: The use of the Dean's Advisory Committee may be requested by the faculty member whose conduct is subject of the proceedings, or initiated at the discretion of the dean. The Dean's Advisory Committee shall consist of three members of Faculty Senate selected by the Faculty Senate chair. If utilized, it will assist the dean by hearing the evidence and the parties' respective positions, and by rendering findings of fact and recommendations.
        i. If utilized, the Dean's Advisory Committee shall hold the hearing no later than fifteen (15) days from the date of the notice letter or memo to the faculty member.
        ii. If utilized, the Dean's Advisory Committee shall render written findings and recommendations, with the record, to the dean or designee and to the faculty member within five (5) days from the hearing;
    b. **Hearing by Dean**: If neither the dean nor the faculty member elects to utilize the Dean's Advisory Committee, the dean shall conduct the pre-determination hearing within fifteen (15) days from the date of the notice letter or memo.
    c. **Legal Counsel**: If the faculty member is represented by legal counsel, the university may also utilize legal counsel. The role of the attorneys during the pre-determination hearing is not to actively participate or present, but to advise and provide support.
    d. **Conduct of Pre-Determination Hearing**: At the pre-determination hearing, the faculty member will be given the opportunity to respond to the charges and to

the evidence, including the submission of documentary and other evidence, such as any witness statements collected. In the event the faculty members informs the dean in advance of the hearing that an NMSU employee is a necessary witness and will not cooperate in providing a statement, NMSU will make arrangements for the witness to be available either in person or through other telephonic or technological means.

4. **Issuance of Determination**: [10 days or less] Within ten (10) days from the pre-determination hearing or from receipt of the Dean's Advisory Committee's findings and recommendations, as appropriate, the dean shall issue a determination to the parties, with a copy to the assistant vice president of human resource services and to the university's general counsel. The dean may uphold, modify or reject the proposed administrative action.
5. **Notification of Right to Appeal**. The determination shall notify the faculty member of the right to appeal. If the faculty member does not appeal, a copy of the determination shall be sent to the Office of the Executive Vice President and Provost, as well as filed in the faculty member's official personnel file.

## N. Post-Determination Appeal

The aggrieved faculty member may appeal the determination of the dean in accordance with the policies and procedures below.

### 1. Initiation of Appeal [5 days]

To appeal, the faculty member ("appellant") shall submit a written notice of appeal to the Office of the Executive Vice President and Provost, within five (5) days from the receipt of the dean's determination. The appellant shall also send a copy of the notice of appeal to the dean and to the assistant vice president of human resource services.

### 2. Notice to Convene Faculty Appeals Board [3 days]

Within three (3) days, the executive vice president and provost shall notify the Faculty Senate chair to convene the Faculty Appeals Board.

### 3. Faculty Appeals Board

a. **Composition**: The Faculty Appeals Board is convened as needed; its membership for any given appeal shall be determined based on the date the Notice of Appeal is received by the Office of the Executive Vice President and Provost. The Faculty Appeals Board shall consist of each senator with the longest continuous Faculty Senate service from each Faculty Senate voting unit. If a senator is from the same

department or other academic unit as the appellant or is otherwise unable to serve (See subsection 4 a. below), the senator with the next longest Faculty Senate service from the same voting unit shall be selected by the Faculty Senate chair to serve. If two senators have identical length of service, the senator with the longest service at the university will serve; if there still remains a tie, lots shall be drawn.

b. **Quorum**: All Faculty Appeals Board members are required to attend each appeal hearing.
c. **Chair**: The Faculty Appeals Board will elect one of its members to serve as chair on a hearing by hearing basis, after notification by the Faculty Senate chair to the appropriate senators that the Faculty Appeals Board needs to convene.
d. **Administrative Support**: The Faculty Senate chair and the assistant vice president of human resource services shall coordinate to provide the Faculty Appeals Board with the necessary clerical, administrative and/or technical support it requires. They may also provide guidance to all parties regarding applicable time deadlines and other procedural issues that may arise.

## 4. Conduct of Appeal Hearing [25 days]

Within twenty five days (25) from the date of the notice of appeal, the Faculty Appeals Board shall schedule a hearing on the matter of the faculty member's appeal.

### a. Fair and Impartial Hearing/Avoidance of Conflicts of Interest

Faculty members are entitled to a fair and impartial hearing. This includes the prompt resolution of actual and perceived conflicts of interest. (See M. 3. a. above)

i. **Disclosure of Potential Conflicts of Interest**
- The members of the Faculty Appeals Board shall disclose any potential or actual conflict of interest immediately, or as soon as practicable, in order that the issue may be fully resolved prior to the appeal hearing.
- A party shall also raise the issue of a perceived conflict of interest as soon as the conflict is known. ii. Resolution of Disclosed or Perceived Conflicts of Interest:
- In the event a conflict of interest issue is raised, verbally or in writing by anyone, the Faculty Appeals Board chair shall give notice of the potential conflict to the parties and proceed to resolve the issue as expeditiously as possible.
- If a challenged Faculty Appeals Board member agrees that the conflict is sufficient to render the member unable to participate in a fair and impartial manner, the member shall decline to participate and an alternate member will be selected by the Faculty Senate chair, in accordance with M. 3 a. above.

- If the challenged Faculty Appeals Board member disagrees that there is a conflict sufficient to affect impartiality, the matter will be decided by the Faculty Senate chair.
- Each party may provide their position on the issue, and to comment on the position of the other party.
- If a Faculty Appeals Board member is excused based on a finding of conflict of interest, an alternate member will be selected by the Faculty Senate chair, in accordance with M. 3 a. above.

ii. **Guidelines for Determining Conflicts of Interest**:

- Under no circumstances will a Faculty Appeals Board member participate in a hearing convened to hear an appeal by a person with whom the member has a familial, personal or close professional relationship. A Faculty Appeals Board member shall not hear a matter involving faculty from their own NMSU entity.
- If one or more of the witnesses has a close relationship with one of the Faculty Appeals Board members, disqualification from service shall not be automatic, but shall be decided based upon the specific facts of each case.
- If the appellant or a witness has had prior contact with either the assigned mediator or a hearing panel member, disqualification from service shall not be automatic, but shall be decided based upon the specific facts of each case.

### b. Scope of Hearing and Burden of Proof

The hearing will be limited to the issues relevant to those identified in the notice of proposed corrective action, and the university bears the burden of showing that the action taken was supported by just cause.

### c. Closed Hearing

The hearing will be closed to the public.

### d. Hearing Record

The hearing will be electronically or digitally recorded. NMSU will not provide transcripts of the hearing; upon request and payment of a reasonable recording fee, the university will provide an audio, digital or other form of recording, as appropriate. (See also subsection O. below)

### e. Informal Nature of Hearing

The hearings of the Faculty Appeals Board are not be bound by the rules of civil procedure, and any evidence of probative value in determining the issues involved may be admitted. Every possible effort will be made to obtain the most reliable evidence available.

### f. Legal Counsel

Each party may be represented by legal counsel in their preparations for the hearing and appearance before the Faculty Appeals Board.

### g. Notice of Hearing

The chair will notify the appellant, respondent NMSU department and other appropriate persons in writing the date, time, and location of the hearing. The hearing will be scheduled within twenty five (25) days from the date of the notice of appeal.

### h. Pre-Hearing Exchange of Documents [5 days prior to hearing]

At least five days prior to the hearing, each party shall submit a copy of their position statement and supporting evidence to the assistant vice president for human resource services, and to the other party via secure electronic delivery, or other confidential means. The assistant vice president for human resource services shall ensure that each member of the Faculty Appeals Board receives a copy at least three (3) days prior to the hearing.

### i. Exclusion of Witnesses

Witnesses shall be excluded from the hearing except to provide their testimony. This rule does not apply to parties, who may also be witnesses.

### j. Fair and Orderly Hearing

The chair will assure that all parties have an adequate opportunity to present relevant evidence to the Faculty Appeals Board. Each party may call witnesses in support of their respective position. The Faculty Appeals Board may allocate reasonable time limits for each party. Each party will be invited to make an introductory opening statement, to present witness testimony and documentary evidence, and if time allows, to provide a summation of the evidence tendered. Each party shall be permitted an opportunity to cross examine the witnesses called by the opposing party.

### k. Closure of Hearing

After the parties have concluded their presentations, the Chair will formally close the appeal hearing, and excuse the parties and witnesses.

### l. Deliberations by Faculty Appeals Board

The Faculty Appeals Board will deliberate on the evidence received at the hearing; depending upon the time the hearing is concluded, the Faculty Appeals Board may recess and continue their deliberations to another date and time.

### m. Issuance of Findings and Recommendations [15 days or less]

Within 15 days from the close of the appeal hearing, the chair shall submit the Faculty Appeals Board's collective findings and recommended conclusions on the issue of whether or not the action taken was supported by just cause, including the vote count and any dissenting opinion, along with the appeal hearing record. The Faculty Appeals Board shall not distribute its findings and recommendations, or otherwise disseminate any information from the confidential personnel hearing, to any person or office other than the Office of the Executive Vice President and Provost.

### 5. Decision by Executive Vice President and Provost [10 days or less]

The executive vice president and provost shall issue a decision to the parties within ten (10) days from receipt of the Faculty Appeals Board's findings and recommendations and the record.

a. In the event of a conflict of interest or other disqualifying event on the part of the executive vice president and provost, university general counsel will select a designee to decide the appeal, potentially including an outside professional.
b. The executive vice president and provost's decision shall notify the faculty member of the right to seek a final review by the Chancellor. A copy of the Faculty Appeals Board's findings and recommendations shall be attached to the decision.
c. If no final review is sought, a copy of the executive vice president and provost's decision will be filed in the faculty member's official personnel file.

## O. Final Review by Chancellor

The aggrieved faculty member ("appellant") may appeal the decision of the executive vice president and provost in accordance with the following:

1. **Request for Final Review**: [5 days] Final review shall be initiated by filing a written request for with the Office of the Chancellor within five (5) days from receipt of the executive vice president and provost's decision. The appellant shall also send a copy of the request for final review to the executive vice president and to the assistant vice president of human resource services.
2. **Designee in Event of Unavailability**: In the event of a conflict of interest or other disqualifying event on the part of the Chancellor, the university's general counsel will select a designee to render the final review, potentially including an outside professional.
3. **Review**: [20 days or less] The Chancellor shall review the record and issue a final decision on behalf of the university within twenty (20) days from receipt of the request for final review and receipt of the record. In the event that the Chancellor wishes to hear from any party about the evidence in the record, all parties shall be present.

4. **Issuance of Final Decision**: The Chancellor's decision shall be delivered to the parties and to the Faculty Appeals Board's chair, to the assistant vice president for human resource services and to the university general counsel. The decision of the Chancellor shall be final. A copy of the Chancellor's decision shall be filed in the faculty member's official personnel file.

## P. Maintenance and Storage of All Hearing Records

The pre-determination, appeal and final review hearing records consisting of all official hearing correspondence, position statements and evidence submitted by the parties, and electronic recordings will be filed in the Office of Human Resource Services. A copy of the final decision in each contested personnel matter shall also be filed and maintained permanently in the Office of the Executive Vice President and Provost.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 10 | HR - Discipline and Dispute Resolution

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 06/21/2012

## Related

**Cross-Reference:**
Appendix ARP 10.50-A

**Revision History:**

Recompiled 2017, formerly Rule 4.05.50

10/21/2015 Policy replicated by Board of Regents as initial Rule 4.05.50;

06/21/2012 Amendment approved by Board of Regents

05/06/2011 Policy adopted by Board of Regents

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 10.60 – Review of Faculty Grievances

arp.nmsu.edu/10-60

## PART 1: PURPOSE AND OVERVIEW

A. **Redress of Grievances**: This rule is adopted pursuant to the authority granted in RPM 6.00 to provide Faculty with an objective and expeditious process to seek review of their grievances relating to workplace issues. The rule ***(at Part 9. F.)*** also prohibits retaliation against those who utilize this rule to file a grievance or who are required to participate in proceedings authorized by this rule.

B. **Informal Pre-Grievance Dispute Resolution**: Faculty and academic administrators alike are strongly recommended to pursue informal discussions, mediation or alternative forms of dispute resolution services available on campus to resolve contested matters at the lowest administrative level possible, and avoid escalation of a dispute and polarization of the Parties' positions. Failing informal resolution, this rule provides the rules and procedures by which a formal fact finding hearing is conducted by a Hearing Panel comprised of faculty peers, followed by a final decision by the provost.

C. **Establishment of Faculty Grievance Review Board**: The Faculty Grievance Review Board (FGRB) is established to process the requests for formal grievance hearings. This rule describes the composition and election of members of the FGRB, the FGRB's functions and authority; the requirements to initiate a grievance, and if not dismissed by the FGRB after preliminary review, the rules and procedures relating to the formal hearing process, which culminates with the FGRB issuing findings of fact supported by a preponderance of the evidence, and a final decision by the provost.

D. **Overview of Rule**: This rule is divided into the following Parts:

**PART 1**: **PURPOSE AND OVERVIEW**

**PART 2: DEFINITIONS**

**PART 3: FGRB COMPOSITION; ELECTION OF MEMBERS; TERMS OF SERVICE**

**PART 4: FGRB FUNCTIONS**

**PART 5: ADMINISTRATIVE SUPPORT FOR THE FGRB**

**PART 6: PARTIES' RIGHT TO FACULTY CONSULTANT**

**PART 7: PROCEDURES TO INITIATE GRIEVANCE**

**PART 8: PRELIMINARY REVIEW BY THE FGRB**

**PART 9: RULES PERTAINING TO GRIEVANCES** (Time Deadlines; Communications; Confidentiality; Elimination of Potential Bias; Preservation of Grievance Record; Prohibited Retaliation; Requests to Stay Grievance Proceedings)

**PART 10: PRE-HEARING PROTOCOLS** (Designation of Hearing Panel and Chair; COI Avoidance; Setting the Hearing Date/Time/Location; Submissions by Parties; Facilitation of Witness Testimony)

**PART 11: HEARING PROCEDURES**

**PART 12: FINDINGS OF FACT SUPPORTED BY EVIDENCE AND RECOMMENDATIONS**

**PART 13: FINAL DECISION**

## PART 2: DEFINITIONS

Terms defined for purposes of this rule are listed below, and will be capitalized throughout, to indicate it is a defined term.

A. **Day**: Means Monday through Friday, excluding official university holidays and closures.
B. **Faculty**: Any full- or part-time tenured, tenure track, or regular non-tenure track faculty member who alleges specific facts indicating that they have been personally and adversely affected by a decision, action, or inaction. Faculty employment status will be determined by Human Resource Services when requested by the FGRB Co-Chair(s).
C. **Faculty Consultant**: A faculty member who provides consultation support in the pre-grievance, pre-hearing and formal hearing steps to the faculty grievance process.
D. **FGRB Co-Chairs**: Two members of the FGRB selected by the membership to lead the FGRB in administering this rule.

E. **Grievance Record**: The documentation in any format (e.g. e-mail) relating to the grievance, including but not limited to notifications setting the date, time, and location of the formal hearing; written procedural guidance provided by the FGRB Co-Chair(s) or Hearing Panel to the Parties, if any; all evidence submitted by the Parties at the formal hearing, labeled as to which Party submitted it; the recordings of the formal hearing, the findings of fact and recommendations, and the Provost's final decision.
F. **Grievant:** A Faculty member, or any group of Faculty, alleging a grievable claim.
G. **Hearing Panel**: Three members of the FGRB (2 faculty and 1 department head), designated by the FGRB Co-Chairs to conduct the formal hearing.
H. **Hearing Panel Chair**: A member of the three member Hearing Panel designated by the FGRB Co-Chairs to chair the formal hearing.
I. **Party**: The individual(s) who filed the grievance and any person or unit named or joined as a Respondent.
J. **Respondent:** Any person or unit whose action or inaction gave rise to the grievance.

## PART 3: FGRB COMPOSITION; ELECTION OF MEMBERS; TERMS OF SERVICE

A. **Membership**: The Faculty Grievance Review Board (FGRB) will consist of a total of 13 members, with 9 faculty members elected from the faculty at large (6 tenured or tenure-track faculty, 3 college regular non-tenure track faculty), and 4 department heads.
B. **Elections**: Elections will be held during the fall semester with the term of service to begin the first Day faculty report the following spring semester. If for some reason service cannot start at that time, regardless of when it does start, the end date of service will not change.
    1. Nominees for the at-large positions will result from a general announcement calling for nominees, including self-nominations. The at-large members will not be a department head, associate dean, or dean on interim or permanent basis. The faculty will elect the at-large member(s) from the complete list of nominees.
    2. After a general call throughout the NMSU system for nominations for the department head positions, the provost will forward at least two nominations for each vacant position to the Faculty Senate who will elect the member.
    3. Nominations will be made such that no Faculty Senate electing group (See Faculty Senate Constitution) will have more than three members

on the FGRB and no department will have more than one.

4. Elected members will serve a three-year term and will serve no more than two consecutive, 3-year elected terms, with the exception of the provisions in Section C. below.
5. Elected members will attend orientation training within a month after beginning their FGRB service.

C. **Continuance of Service**: The members will continue to serve on the FGRB until member's replacement has been elected, notwithstanding the limitation on service to two consecutive three-year terms.

D. **Service During Summer Months or Other Period of FGRB Member Unavailability**: If there are no FGRB members available to convene a Hearing Panel during the summer months, or any other time, the FGRB Co-Chair(s) and the provost will coordinate to designate similarly representative and neutral members of faculty to serve as alternate hearing officials, in lieu of elected FGRB members for purposes of a specific hearing.

E. **Vacancies; Interim Appointments**:
   1. A FGRB member may resign by providing written notice to the FGRB Co-Chairs, with copy to the Faculty Senate Chair.
   2. Upon a vacancy created by an at-large FGRB member's resignation, the Faculty Senate Chair will announce the vacancy system-wide and ask interested and qualified Faculty to submit their names. The Faculty Senate Chair will select from these names an individual to serve.
   3. Upon a vacancy created by a Department Head FGRB member's resignation, the provost will submit at least two nominees to the Faculty Senate Chair. The Faculty Senate Chair will select from these names an individual to serve.
   4. The replacement member will serve for the remainder of the elected member's term.
   5. Replacement member's service will not be counted as part of the two-term limit.

## PART 4: FGRB FUNCTIONS

A. **General Role and Responsibility**: The FGRB facilitates the hearing of formal grievances filed by Faculty. The FGRB may decline to accept a grievance or may refer the matter for formal hearing by an objective Hearing Panel. *(See Part 8)* Based on issues that have come before it, the FGRB is also authorized to issue recommendations to the provost or to the

Faculty Senate for changes in policy, rules or procedures to improve work conditions or to effectuate equity in the Faculty work environment.

B. **Election of FGRB Co-Chairs**: Each year, the FGRB will elect one FGRB Co-Chair, who may serve more than one term. The goal by electing one per year is that each year, one of the FGRB Co-Chairs will have prior experience, to assist in maintaining the continuity of service provided by the FGRB.
C. **Authority of Co-Chairs**: Co-chairs vote as any other member of the FGRB. The FGRB Co-Chairs facilitate the processing of formal Faculty grievances in accordance with this rule. They are authorized to communicate on behalf of the full FGRB consistent with the position of the majority, or as the FGRB delegates to them for procedural tasks.
D. **Meetings**: For all meetings of the FGRB, a minimum of 24 hours e-mail or written notice will be given to all members of the FGRB. For official actions taken by the FGRB (e.g. accepting or declining to accept a grievance), a minimum of a quorum of seven (7) is needed. To facilitate meetings of the FGRB, members may participate telephonically or by other electronic/digital means, provided that all members may be heard on the call and confidentiality is maintained. In addition to the meetings to review new grievances, the FGRB Co-Chairs may convene regular or standing meetings of the full FGRB for the conduct of its business.
E. **Operational Guidelines; Orientation and Training**: The FGRB may develop guidelines for its operations and the formal hearing not inconsistent with this rule, including new member orientation and refresher training for current members. Any hearing guidelines that will affect the formal hearing process must be provided to the Parties upon the filing of a grievance.
F. **Attendance at FGRB Orientation and Training Sessions**: Each FGRB member must participate in an orientation session after election to the FGRB and any refresher training recommended by the FGRB Co-Chairs or the provost. If the FGRB Co-Chairs determine that an FGRB member is neglecting their duties (would include not attending training or not hearing cases), that they may bring this to the attention of the member's supervisor.
G. **Preliminary Review/Summary Disposition**: After receipt of a formal grievance, the FGRB will meet to determine whether it will accept the grievance for formal hearing. In making its decision, the FGRB will consider the guidance relating to subject matter below in *Part 8. B. below*, the employment status of the Grievant (*See Part 2 B. above)*, the timeliness *(See Part 7. A. below),* and if the Grievant has followed the prescribed format ( *See Part 7. B*.). If the FGRB determines that the subject matter or relief sought are outside the purview of this rule and the FGRB's authority, it will notify

the Grievant that the grievance will not proceed to formal hearing. If the grievance otherwise states a viable grievance but is not in the requisite format, the FGRB may provide the Grievant an additional two weeks to re-submit it before it will be processed for hearing.

H. **Formal Grievance Hearings**: When the FGRB has accepted a grievance, the FGRB Co-Chairs will designate three FGRB members (2 faculty, 1 department head) to convene as a Hearing Panel to conduct a fact finding hearing. The Hearing Panel members will be selected to provide appropriate peer representation, in terms of faculty status and familiarity with the type of work performed, to the extent possible based on scheduling availability and subject to the constraints of Part 9. D. 3. The Hearing Panel will issue findings of fact supported by a preponderance of evidence. *(See Part 12)*

I. **Periodic Policy Review**: The FGRB will recommend revisions to this rule as necessary for the efficient processing and consideration of Faculty grievances.

J. **Attendance at Hearing**: The FGRB is authorized to issue formal notices to named witnesses who are NMSU employees or retirees, requesting their appearance before the Hearing Panel. If such formal request is not honored, the FGRB will seek assistance from executive administration and the AVP Human Resource Services. Additionally, in the event there are insufficient number of FGRB members available to convene a Hearing Panel, academic administration will assist. (*See Part 9. A. below*)

## PART 5: ADMINISTRATIVE SUPPORT FOR THE FGRB

The Faculty Senate Chair, or their designee, and the Assistant Vice President of Human Resource Services will coordinate to provide the FGRB with the necessary clerical, administrative, and technical support it requires, which will include guidance relating to applicable time deadlines and other procedural issues that may arise.

## PART 6: PARTIES' RIGHT TO FACULTY CONSULTANT

Either Party may enlist the aid of a Faculty Consultant whose role will be to provide guidance directly to the Party. The role of Faculty Consultant does not include actively advocating on behalf of the Party in official communications or at the formal hearing. It is the responsibility of the Party to keep the Faculty

Consultant informed. If a Party requests assistance in obtaining a Faculty Consultant, the Faculty Senate Chair or their designee will appoint a senior faculty member to serve in that capacity.

## PART 7: PROCEDURES TO INITIATE GRIEVANCE

A. **Timing**: Failing resolution through alternative dispute resolution, the Faculty member submits a written grievance within thirty (30) Days from the date of the action or inaction giving rise to the grievance. The thirty (30) Day deadline may be waived by the FGRB in cases alleging a "continuing violation" where the most recent incident alleged occurred within the thirty (30) Day period, or where ongoing and genuine efforts during the pre-grievance stage caused a delay in filing, or other good faith extenuating circumstance.

B. **Grievance Format**:
   1. The grievance will be in memo format, with the subject line indicating that it is a Faculty grievance and the Respondent(s) named therein (e.g. "SUBJECT: Faculty grievance versus Respondents ABC and GHI").
   2. The grievance memo, limited to 5 pages excluding attachments, will:
      a. Identify the Grievant(s) by name, job title, phone number, mailing address, NMSU e-mail address and the method by which they may be readily contacted;
      b. Identify the Respondent(s) by name, job title, phone number, and e-mail address;
      c. Identify the issue(s) in dispute, including the specific allegations against each named Respondent;
      d. Identify any individuals with personal knowledge regarding the issues in dispute, including contact information for the individual;
      e. Identify efforts made to date to resolve dispute;
      f. Outline the points in support of the Grievant's position, referencing any supporting documentation;
      g. State the desired outcome of the grievance;
      h. Include the statement "By signing this grievance, I hereby verify that the facts I have alleged in this grievance are to the best of my knowledge and belief true and accurate.";
      i. Contain the signature of the Grievant with the date signed; and
      j. Attach or reference any supporting documentation;

C. **Notice**: If after preliminary review, the FGRB accepts the grievance for hearing, the Grievant will electronically send a copy of the grievance to:

1. The named Respondent(s);
2. Grievant's and Respondent's supervisors.

## PART 8: PRELIMINARY REVIEW BY THE FGRB

A. **Review by Quorum**: Within ten (10) Days of receipt of the grievance, at least a quorum of the FGRB will convene to review the grievance and determine whether or not the Grievant has standing (***See Part 2. B. above)***, has filed timely ***(See Part 7 A. above)*** regarding an issue that may be grieved under this rule. (See ***Section Part 8 B. 2. below***)

B. **Decision to Accept or Decline Grievance**: The FGRB will vote to either accept the grievance for formal hearing or to decline to hear the matter. Guidance is provided below regarding the types of issues the FGRB will accept and submit to a Hearing Panel.
    1. Subject Matters within FGRB's Purview: The FGRB may hear matters involving alleged violation of university policy, rules or procedures or appeals from administrative decisions and other administrative actions perceived to be unfair or unprofessional, provided university policy, rules or procedures do not otherwise provide or prohibit a dispute resolution process.
    2. Subject Matters Outside of FGRB's Purview: There are several areas outside the scope of authority of the FGRB; when grievances alleging the following types of matters are filed, the FGRB will not accept the grievance and will notify the Parties that the grievance will not be heard.
        a. Job direction, including coaching, counseling, and documented warnings provided for purpose of improving work performance;
        b. Non-renewal of annual employment contract during probationary period of a tenure-track Faculty member, unless a violation of policy, rule or procedure, or the letter of hire is alleged;
        c. The outcome of the promotion and tenure process, unless a policy or procedural violation is alleged to have materially affected the outcome;
        d. Disputed matters that fall within the jurisdiction of another NMSU unit or hearing body, including but not limited to:
            i. Involuntary termination for cause (ARP 10.50 Faculty Alleged Misconduct Investigation, Discipline and Appeals Processes)
            ii. Complaints of unlawful discrimination (ARP 3.25

Discrimination, Harassment and Sexual Misconduct on Campus)

iii. Intellectual property disputes (ARP 11.05 Intellectual Property Management)

iv. Freedom of Expression Conflict (ARP 3.63 – Freedom of Expression) requires informal resolution prior to filing a grievance;

v. Disputes involving animals on campus (ARP 3.45 – Assistive, Service and Companion Animals on University Premises); ARP 3.45 – Assistive, Service and Companion Animals on University Premises;

vi. Disputes involving hostile misconduct in the workplace (ARP3.80-Non-Discriminatory Bullying, Hazing and Hostile Misconduct)

e. Reassignment or transfer, provided no change in tenure home, loss in pay or Faculty rank, or other violation of policy, rule or procedure, or letter of hire is alleged;

f. Changes in status of an academic administration position, consistent with policy, rules and procedures (See RPM 6.00, ARP 7.35 Faculty Compensation – Faculty Retreat Rights) and with letters of hire.

g. The substance of a policy, rule or procedure, including established practices, unless it has an alleged unfair impact;

h. A resignation that has been sent and received;

i. Issues that could have been raised in a previous grievance submitted to the FGRB involving the same Parties and arising from the same or substantially similar facts, unless new evidence is submitted that is found to be substantive. This exclusion is intended to bar duplicative claims or claims that could have been included in the prior grievance; and

j. Grievances filed past the time limit, unless authorized by a waiver of the time deadline.

C. **Notice of Acceptance/Declination to Parties:** If the grievance is declined in accordance with the above, the FGRB Co-Chair(s) will issue official correspondence to the Parties on behalf of the FGRB expressing the basis/es for the decision of the majority of the FGRB. Absent a time extension, a decision that the grievance has been declined should be sent within five (5) Days from the date the FGRB met and made its decision.

## PART 9: RULES PERTAINING TO GRIEVANCES

A. **Time Deadlines**: Faculty grievances should be processed as expeditiously as possible.
    1. Requests for extensions of time may submitted in writing by any Party or FGRB official involved in the grievance process. Such requests must justify the request, copy the Parties and be addressed to the FGRB. The FGRB will grant reasonable requests for extension and notify the Parties about the new deadline.
    2. If the personnel necessary for the hearing are not mutually available on the dates and times proposed for the hearing, the Co-Chair(s) may seek the assistance of the provost or the AVP HRS to resolve scheduling conflicts, or time deadlines may be extended, with notice to the Parties.

B. **Communications**: Neither party nor their Faculty Consultant may communicate in any form (e.g. verbal, written, email, text, social media) with the FGRB officials about the merits of the grievance. They may seek procedural guidance from the FGRB Co-Chair(s) or Hearing Panel Chair as needed, who will document the communications for the record. Substantive communications which inadvertently happen will be documented via memo for the record and shared with the relevant FGRB officials or Parties as appropriate. Under no circumstances will the involved Parties, witnesses or representatives or Faculty Consultants communicate with the provost or other designated final decision maker about the grievance.

C. **Confidentiality**: Grievances relate to sensitive personnel issues and all NMSU employees and students who acquire knowledge or information relating to a grievance are asked to maintain confidentiality. The outcome of terms of any negotiated mutual agreement resolving a grievance will be only be divulged to personnel with a "need to know" and whose assistance is required in implementing the terms of the agreement.

D. **Elimination of Potential Bias**: The FGRB Co-Chair(s) and the Hearing Panel members assigned to the grievance must be able to serve impartially and fairly. The following guidelines are provided to assist the FGRB and the Parties to work through claims of alleged bias or conflict of interest, ideally in the pre-hearing stage.
    1. Any FGRB member selected to serve as a member of the Hearing Panel must disclose actual or potential conflicts of interest immediately, or as soon as it is realized, in order that it may be resolved prior to convening the hearing.
    2. A Party, including their representative or Faculty Consultant, must also disclose actual or potential conflicts of interest as soon as it is realized so it may be resolved prior to convening the hearing.

3. Under no circumstances will a FGRB Hearing Panel member participate in a hearing convened to hear a grievance involving a Party with whom the member has a familial, personal, or close professional relationship. A FGRB member will not hear a matter involving Faculty from their own academic department.
4. If one or more of the witnesses has a close relationship with one of the Hearing Panel members, disqualification of the Hearing Panel member from service will not be automatic; either the member will recuse voluntarily or the FGRB Co- Chairs will issue a decision in writing, based upon the specific facts of each case.
5. If the Grievant, Respondent, or a witness has had prior contact with a Hearing Panel member, disqualification from service will not be automatic; either the member will recuse voluntarily or a the FGRB Co-Chair(s) will issue a decision in writing, based upon the specific facts of each case.
6. After consideration of the relevant facts and positions of the Parties, if it is determined that a conflict exists sufficient to call into question the impartiality of the FGRB member, the resolution will be either voluntary recusal by the individual alleged to have the conflict or by substitution of a different individual by the appropriate FGRB Co-Chair.

E. **Preservation of Grievance Record**:

1. At the conclusion of the hearing, the FGRB members involved with the grievance will forward official correspondence pertaining to the grievance to the appropriate FGRB Co-Chair.
2. The Hearing Panel Chair, with the assistance from Office of Human Resource Services, Employee and Labor Relations (HRS-ELR) will transmit the formal hearing record to the appropriate FGRB Co-Chair, who will compile the complete Grievance Record and forward to the office of the final decision maker.
3. The final decision maker will ensure that HRS-ELR receives the complete Grievance Record for storage and maintenance in accordance with the university's records retention policies, once the final decision has been issued to the Parties.
4. The Grievance Record will not be filed in the official personnel file. The Grievance Record will be stored in a grievance file with the Office of Human Resource Services, Employee and Labor Relations.
5. On occasion, it may be appropriate to file or to cross-reference a grievance decision in the official personnel file (e.g. to justify a mandated change in salary).
6. If the Grievant prevails on an issue affecting a document contained in

the official personnel file, that document will be revised and the original document will be moved to the grievance file, to document compliance with the decision on the grievance.

7. Copies of the document reflecting the final administrative action to be taken as a result of a grievance, such as resolution outside of the hearing process (e.g. alternative dispute resolution) or a final decision after formal hearing, will be stored permanently in the provost's office.

F. **Prohibited Retaliation**:
   1. Retaliation against any person who files a formal grievance, whether accepted or not by the FGRB, or against any person involved in the grievance resolution process (e.g. witnesses, administrators) is strictly prohibited.
   2. Any claims of retaliation must be reported immediately to the Assistant Vice President of Human Resource Services.
   3. Allegations of retaliation for utilizing this rule or for cooperating with the administration of this rule will be taken seriously, investigated independently from the grievance; and if substantiated, will be grounds for employee discipline up to and including involuntary termination.

G. **Requests to Stay Grievance Proceedings**: With the concurrence of the Assistant Vice President for Human Resource Services and University General Counsel, a grievance may be stayed by the appropriate FGRB Co-Chair when the Grievant is also seeking relief based upon the same set of facts in another forum, or agrees to explore alternative dispute resolution outside the scope of this rule. The matter may be later reopened or dismissed as appropriate for the circumstances. Any person affiliated with the university may submit a written request to a FGRB Co- Chair that a particular grievance be stayed.

## PART 10: PRE-HEARING PROTOCOLS

The Co-Chairs, as determined between the Co-Chairs, will be responsible to coordinate the following pre-hearing tasks in coordination with the designated Hearing Panel Chair:

A. **Designation of Hearing Panel and Chair**: The Hearing Panel will be appointed within ten (10) Days from the FGRB's decision to accept the grievance. The Co-Chairs will designate the Hearing Panel Chair at the time the Hearing Panel is appointed.

B. **Identification and Resolution of Potential COI's**: The Co-Chair(s) will

inform the Parties in writing of the identity of the members of the Hearing Panel, with instructions to respond in writing whether or not there is any issue involved a perceived or actual conflict of interest, so it may be addressed in the pre-hearing stage.

C. **Coordinate a Date/Time/Location for the Hearing and Send Notice of Hearing**: In coordination with the Hearing Panel members, with HRS-ELR (provides technical and administrative support such as administering the oath to the witnesses, recording the hearing and organizing the hearing documents for the Grievance Record etc) and with the Parties, the Co-Chair(s) will set a date, time and location for the grievance hearing. ***See Part 9 A. 2. above*** in the event of scheduling conflicts. The Co-Chair(s) will send Notice of Hearing to the Parties, to the director of HRS-ELR, and to each Hearing Panel member of the date, time and location for the hearing. The notice may also enclose instructions and guidance for the Parties, describing how the hearing will be conducted. ***See Section D. below.***

D. **Submission of Documentation and Witness Lists**: The Co-Chair(s) will direct the Parties to submit via email, on the same date, the documentation they wish the Hearing Panel to consider, including a list of witnesses they intend to call, if any. The documentation must be sent to the appropriate Co-Chair and to each Party. Documents attached to a Party's position paper should be labelled and numbered as that Party's Exhibits (e.g. Grievant's Exhibit 1; Respondent's Exhibit A) Each Party should also be directed to bring a minimum of three copies of the documentation to the hearing (one for the Grievance Record, one for each named Respondent, and one for them self).

E. **Facilitation of Witness Testimony**: If a Party indicates that one of their witnesses will not cooperate or is otherwise unavailable for the hearing, and the witness is an NMSU employee or retiree, the Co-Chair(s) on behalf of the Hearing Panel will coordinate with HRS or executive administration to facilitate their participation. Witnesses may be permitted to participate via telephone or other electronic means, as long as the Hearing Panel and all Parties are able to hear the witness and the witness is able to hear them. Additionally, a hearing may be continued and re-convened as necessary to facilitate accepting the testimony of a witness who is not available at the designated hearing date and time, provided all Parties are in attendance to hear the testimony and to ask questions of the witness.

## PART 11: HEARING PROCEDURES

A. **Participation**: Each Hearing Panel member appointed must attend and

participate. Also present at the hearing will be all Parties, witnesses, and Faculty Consultants. A representative designated by HRS-ELR will serve as notary to swear in witnesses and to record the hearing. Upon request from the Hearing Panel or Co-Chair(s), representatives from HRS and University General Counsel office will be made available for telephonic or in person consultation.

B. **Hearing Record**: An audio recording of the hearing, excluding the Hearing Panel's deliberations, must be made and preserved for the Grievance Record, in accordance with the university's records retention schedule, and any litigation preservation notice. The Parties are entitled to a copy of the recording upon written request, after the final written decision has been rendered.
C. **Disclosure Statement**: The Hearing Panel Chair will ensure that all perceived or actual conflicts of interest have been resolved prior to commencing the hearing by asking for all participants, including the panel members, to indicate that they are not aware of any potential conflicts of interest.
D. **Role of Legal Counsel**: No person attending the hearing may be represented by legal counsel at the hearing.
E. **Closed Hearing**: The hearing will be closed to the public.
F. **Time Allocated for Hearing**:
    1. The time scheduled for attendance by the Hearing Panel members will exceed the time scheduled for the hearing, to allow time following the conclusion of the hearing for the Hearing Panel members to deliberate. (***See Section K. below***)
    2. The time allotted for the hearing must be sufficient for the Parties to fully present the grievance and position in response to the grievance.
    3. The Hearing Panel Chair may impose reasonable time limits relating to witness testimony, in an effort to keep to the hearing timeframe decided upon following the pre-hearing process, for equity and to keep the hearing moving. If something unexpected happens and it becomes clear the time allotted is insufficient, the matter may be continued to a date and time agreed to by the Parties before adjourning.
G. **Conduct of Hearing**: The Hearing Panel Chair will conduct the hearing fairly and impartially, consistent with this rule. The Hearing Panel Chair communicates for the panel, which may necessitate discussion outside the presence of the Parties and a vote of the panel members, if matters are in debate. The Hearing Panel Chair must maintain control of the proceeding, including evidentiary and procedural issues. For procedural issues raised by the Parties, the Hearing Panel Chair may ask the Parties to step out while

the panel deliberates and decides; when the Parties return, the Hearing Panel Chair will announce the panel's decision on the record.

H. **Witnesses**: Each Party may call witnesses. Witnesses may only be in the hearing while giving testimony. This does not apply to the Parties who must remain present, but also provide testimony.

I. **Testimony**: Testimony of any Party or witness will be taken under oath. The Hearing Panel Chair may request that all oaths be taken at one time and then the witnesses asked to leave until such time as they are called to testify, or they may be taken individually immediately prior to giving testimony.

J. **Oath Administration**: A representative from Human Resource Services, Employee and Labor Relations must administer the oath to the Parties participating in a hearing regarding their testimonies.

K. **Deliberations**: At the close of the hearing, after the Parties have been dismissed, the Hearing Panel will deliberate in closed session. The evidence submitted will be reviewed and discussed; the panel members will collectively decide the facts supported by a preponderance of the evidence. The panel may elect to consult with a representative from the Office of University General Counsel or the Office of Human Resource Services relating to its legal obligations or to procedure; these representatives will not provide advice on the merits of the claim. The members of the Hearing Panel may also meet after the hearing date to continue deliberations, or to confer about and finalize the findings and separate administrative recommendations, if any.

## PART 12: FINDINGS OF FACT SUPPORTED BY EVIDENCE & RECOMMENDATIONS

A. **Timing**: Absent notification to the Parties and the appropriate FGRB Co-Chair justifying a time extension, the Hearing Panel Chair will submit a report of the findings of fact, supported by a preponderance of the evidence, to the final decision maker (typically the provost) within fifteen (15) Days from the closure of the hearing or date of deliberations by the Hearing Panel, whichever is later.

B. **Preponderance of Evidence and Majority Opinion**: Each finding of fact must be supported by a preponderance of the evidence and constitute the view of a majority of the Hearing Panel. A Hearing Panel member who does not agree with the majority may issue a memo explaining their viewpoint, and must include reference to the evidence they believe supports a different finding or recommended conclusion.

C. **Administrative Recommendations Optional**: Separate from the factual findings, the Hearing Panel may, but is not required to, issue recommended conclusions or other administrative recommendations relating to or arising from the grievance.
D. **Delivery of Grievance Record**: The Hearing Panel's findings of fact, administrative recommendations and dissent, if any, will be delivered to the final decision maker via the FGRB Co- Chair(s), who must also deliver the entire Grievance Record.

## PART 13: FINAL DECISION

A. **Decision Maker**: Generally, the provost will issue the written final decision. If for any reason the provost is excused from making a decision due to conflict or unavailability, the Assistant Vice President of the Office of Human Resource Services will designate an alternate academic administrator or the chancellor to serve in this capacity in lieu of the provost, with notice to the Hearing Panel Chair and FGRB Co-Chairs.
B. **Timing for Final Decision**: Absent notification to the Parties and the FGRB Hearing Panel Chair that additional time is required due to scheduling demands or other lack of availability, the final decision will be issued within fifteen (15) Days from receipt of the FGRB Hearing Panel's findings of fact and the complete Grievance Record.
C. **Issuance of Decision**: The final decision will explain the evidence which supports the decision, if at variance from the FGRB's findings of fact and conclusions, if any. A copy of the Hearing Panel's findings of fact and conclusions if any, will be enclosed with the final decision. The final decision must be addressed to the Parties, with copy to the Assistant Vice President of Human Resource Services for inclusion in the Grievance Record. Notification that a final decision has been issued will be sent to the FGRB Hearing Panel Chair and FGRB Co-Chairs.

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 10 | HR - Discipline and Dispute Resolution

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 03/13/2019

## Related

**Cross-Reference:**
**RPM 6.00 – Human Resources**

**ARP 3.25 – Discrimination, Harassment and Sexual Misconduct on Campus**

**ARP 7.35 – Faculty Compensation – Faculty Retreat Rights**

**ARP 10.50 – Faculty Alleged Misconduct Investigation, Discipline, and Appeals Processes**

**ARP 11.05 – Intellectual Property Management and Commercialization**

**Revision History:**
03/13/2019 Amendment (FS Prop. No. 13-18/19) approved by Chancellor
2017 Recompilation, formerly Rule 4.05.50
05/10/2016 Rule 4.05.50 amended by Chancellor
10/21/2015 Policy 4.05.50 approved as Initial Rule 4.05.50
06/21/2012 Policy 4.05.50 amended by Board of Regents
06/08/2010 Policy 4.05.50 substantively amended by Board of Regents

© 2017 New Mexico State University - Board of Regents

# Chapter 11 | Research and Intellectual Property

## Subsections of Chapter 11


- 11.00 – Research Guiding Principles
- 11.01 – Research Oversight and Risk Management
- 11.05 – Intellectual Property Management and Commercialization
- 11.19 – Faculty Distribution of Effort
- 11.20 – Responsibilities and Accountability for Sponsored Project Awards
- 11.30 – Addressing Allegations of Misconduct in Research
- 11.50 – Hemp Research, Extension, and Outreach Activities


Go to RPM

ARP Crosswalk

Search for:

Search ...

Search

## ARP Contents

Chapters 1 – 5

Chapters 6 – 10

Chapters 11 – 15

Chapter 16 – 18

Appendices

Filter by Rule Administrator

Select

Submit

New Mexico State University

# 11.00 – Research Guiding Principles

arp.nmsu.edu/11-00

## PART 1: RESEARCH PHILOSOPHY

Research is an important component of every academic activity, and is, therefore, the source of content for quality instructional programs. New Mexico State University recognizes research as essential to the vitality of the university and undertakes the support of research as part of its institutional responsibility.

The mission statement expresses the importance of research as one of the university's core functions: *New Mexico State University is the state's land-grant university, serving the educational needs of New Mexico's diverse population through comprehensive programs of education, research, extension education, and public service.*

The university promotes academic inquiry and protects the academic freedom of those engaged in it. This includes the support of research and off-campus study as potentially valuable experiences for faculty and students. These experiences may take the form of sabbaticals, internships, intensive study of specialized techniques, and conducting research at specialized facilities. These opportunities offer researchers considerable flexibility in their training and promote valuable contacts among faculty members, students, the university, industry and other research institutions.

## PART 2: PROTECTIONS IN RESEARCH INVOLVING HUMAN SUBJECTS

It is the policy of the university to protect the rights, wellbeing, and personal privacy of individuals participating in research projects, while also maintaining a favorable climate for the conduct of scientific inquiry and protecting the interests of the university. The university has established the Institutional Review Board to regulate the participation of human subjects in research,

consistent with federal law. (*See* **ARP 11.01** Part 4) All research conducted at or by the university, regardless of funding source, will adhere to the requirements of the Institutional Review Board and the following tenets:

A. **Protection of Human Subjects Paramount**: The university, including its faculty, staff, contractors and student body will be responsible for the protection of the rights and welfare of human subjects.
B. **Avoidance of Unreasonable Health Risk**: No human subject involved in a research activity will be exposed to unreasonable risk to health or well-being, in order to ensure the subject's physical and mental safety and well-being.
C. **Participation is Voluntary**: All participation by human subjects must be voluntary; no subject will be coerced in any way to participate in a research project. A request by any subject to withdraw from a research activity must be honored promptly without penalty or loss of benefits to which the subject is otherwise entitled, within the limits of the research.
D. **Confidentiality**: The confidentiality of information received from subjects in experiments or respondents to questionnaires will be protected, both during and after the conduct of a research activity, consistent with applicable law.
E. **Signed Consent from Participant**: In research which involves more than minimal risk, or which involves substantial stress or discomfort, such risk, stress or discomfort must be carefully explained in advance to the subject. The researcher(s) must be satisfied that the explanation has been understood by the subject, and that the written consent of the subject, is obtained and kept as a matter of record. The researcher(s) will ensure that the method used to obtain informed consent (written, audio-recorded, witnessed) is the most appropriate for the participant, and for providing appropriate evidence of informed consent consistent with the approval granted by the Institutional Review Board and with applicable federal law.
F. **Signed Consent from Legal Guardian**: Research involving certain subject populations (e.g., persons under the age of 18 or persons with impaired decision making capacity) will require a legal guardian to provide signed consent.

## PART 3: PROTECTIONS IN RESEARCH INVOLVING THE USE OF ANIMALS

As a land grant institution, it is the university's role to conduct, if not lead, research designed to optimize the use of animals in the service of man, and to advance human and animal welfare. Consistent with applicable law and regulations, the university supports the use of animals in research, education,

and as agricultural resources, provided that the usage is reasonably expected to advance knowledge about human or animal welfare. It is the university's policy to meet all federal and state standards and regulations applicable to animal use.

The university has established the Institutional Animal Care and Use Committee to administer policies and procedures regarding university care and use of vertebrate animals. (*See* **ARP 11.01 Research Oversight and Risk Management** Part 5) Any concerns regarding the use or care of animals by the institution should be addressed to the Institutional Animal Care and Use Committee.

## PART 4: PROTECTION OF SENSITIVE INFORMATION

Research units, including but not limited to the Physical Science Laboratory, receive many sponsored awards in which information provided by the sponsor or generated by or in connection with the research effort may be considered sensitive: classified, controlled unclassified, and/or proprietary. Units keeping or using sensitive information should adopt appropriate procedures for its protection and train faculty, staff, and students whose positions require access to such information. All employees must comply with applicable laws, university policy, rules and procedures, and contractual agreements regarding non-disclosure of sensitive information. (e.g. **ARP 5.40- Access to Student Educational Records – FERPA Compliance; ARP 15.11 – Acceptable Use of ICT Equipment and Resources**; **ARP 15.17 – Employee Access to Data and Potential Conflict of Interest; ARP 15.50 – NMSU Institutional Data Security; ARP 15.51 – NMSU Account Password Requirements; ARP 15.55 – Payment Card Industry Data Security Standards; 15.60 – Management of Health Information ; HIPAA Compliance; ARP 15.62 Protection of Federal Information; FISMA Compliance; ARP 15.63 Protection of Customer Information; GLBA Compliance; ARP 15.91 – Identity Theft Protection**; ***NMSU Business Ethics Handbook***, and the Physical Science Laboratory's *Code of Ethics and Standards of Business Conduct*, p. 9.)

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 11 | Research and Intellectual Property

**Rule Administrator:** VP Research

**Last Updated:**

03/13/2019

## Related

**Cross-Reference:**
**ARP 11.01 – Research Oversight and Risk Management**

**ARP 15.62 – Protection of Federal Information; FISMA Compliance**

**Revision History:**

03/13/2019 Amendment approved by Chancellor

2017 Recompilation, formerly Rule 5.94

03/14/2011 Amendments approved by Board of Regents

10/10/2011 Amendment approved by Board of Regents

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 11.01 – Research Oversight and Risk Management

arp.nmsu.edu/11-01

## PART 1: RESEARCH FUNDING AND RESEARCH INSTITUTES

A. **State University Research Fund**: The State University Research Fund is the designated university fund where indirect (facilities and administrative) cost recovery earned by the university is deposited. Funds to support academic research from the State University Research Fund are relatively scarce and must be used in a variety of ways (e.g., to support research, to stimulate new research, to support public service, and to support scholarly endeavors as well as the necessary administration). In general, it is desirable to keep the administrative costs at a minimum and, therefore, make available to the faculty as much support as possible for nonrecurring research expenses. It is the underlying philosophy to use this research support in a flexible manner in keeping with college and department priorities. Encouragement is given to the faculty to secure outside support for research, at the same time recognizing that it is important to provide some support to scholarly pursuits which may not attract outside funding.

B. **University Research Institutes**:
   1. University Research Institutes are units that primarily perform externally funded research. They are formed by the vice president for research in consultation with the executive vice president and provost. Generally, these units will report to the vice president for research; at the time of creating the institute, the reporting line for the unit must be determined by the executive vice president and provost and the vice president for research
   2. University Research Institutes may be created by the university in anticipation of outside funding. They revert to college status or cease to exist if external funding does not materialize. A University Research Institute may receive some support from the State University Research Fund. Except for the Physical Science Laboratory and the Water Resources Research Institute, University Research Institutes do not directly retain a percentage of indirect cost recovery

resulting from their activity.

3. Upon the recommendation of the vice president for research with concurrence of the executive vice president and provost, a University Research Institute may revert to College Research Institute status, be reorganized, or be dissolved, and the following list modified accordingly. University Research Institutes, all of which currently report to the vice president for research, are listed below.
    a. Energy Research Laboratory
    b. Institute for Applied Biosciences
    c. New Mexico Space Grant Consortium
    d. Physical Science Laboratory
    e. Water Resources Research Institute

C. **College Research Institutes**: College Research Institutes are research units formed at the discretion of a college, reporting to the college as the dean directs, and relying on the college for support. College Research Institutes do not directly retain a percentage of any indirect cost recovery resulting from their activity.

## PART 2: UNIVERSITY RESEARCH COUNCIL

The University Research Council was established to foster research at the university. It serves as an advisory body to the vice president for research and proposes policy and rule updates related to research, which if approved by the vice president for research are taken forward to the president for formal review and approval action. The University Research Council provides leadership in fostering a culture of research and in enhancing the university's distinction in research, scholarship, and creative activities among faculty, staff, and students.

A. **Vision:** The University Research Council, in concert with the Office of the Vice President for Research, seeks to create and maintain a culturally-diverse and ethically-driven academic environment that promotes excellence in research through a university that:
    1. Acknowledges and celebrates innovation in research
    2. Promotes and nurtures interdisciplinary research and collaborative research partnerships as well as individual scholarly research,
    3. Sustains and maintains the founding core principles of the university,
    4. Advances collective representation among faculty, staff, and students to the administration through peer review of university funding programs, and
    5. Supports the role of research in creating a university experience that enriches the lives of students and helps them to become well-

informed individuals, lifelong learners, engaged citizens, and productive employees and employers.

B. **Mission**: The University Research Council assists the vice president for research in formulating recommendations and policies specifically affecting the university's research community. Formally advisory in nature, the University Research Council provides a forum for internal discussion, initiates the development of policy, rules and procedures on research matters, gathers and disseminates information to the faculty, and provides a faculty voice to the university administration on matters pertaining to research. While it is recognized that research represents only one component of the academic enterprise, the University Research Council focuses on facilitating and enhancing research-related activities at the university.

C. **Goals**: The University Research Council will work with faculty, administrators, and students to achieve these goals:
    1. Encourage research and creative activities,
    2. Improve the institutional environment for research,
    3. Strengthen the interdependence between research areas and creative activities, and
    4. Increase public awareness of New Mexico State University research.

D. **Duties and Responsibilities**: While adaptive to changing priorities facing research endeavors, the University Research Council has the following specific duties and responsibilities:
    1. Recommend to the Faculty Senate policies it deems appropriate with respect to research activities, facilities, personnel, and patents,
    2. Consult with and advise the vice president for research on the stimulation of and support for research activities, including policies for investment of funds in university research endeavors,
    3. Provide strategic research direction to the vice president for research ,
    4. Assist in the evaluation of research programs within the university, and advise on new research centers and institutes and the performance evaluation of existing centers and institutes,
    5. Recommend policies that will foster strong and mutually productive relationships among departments and research groups,
    6. Be an advocate for the faculty on governmental, industrial, and other private sector and foundation support of the research programs of the university,
    7. Support enhanced mechanisms for faculty to benefit financially from technology transfer and commercial application of research results for the public benefit,

8. Facilitate training for faculty on research grant management and indirect cost mechanisms,
9. Review and make recommendations to the vice president for research on internal research grants and awards, and
10. Work with the vice president for research in enhancing procedures for submissions and review of research proposals.

E. **Structure and Membership**: The structure of the University Research Council consists of the complete University Research Council membership, an elected chair and executive committee, and appointed subcommittees established to address specific issues.
   1. Eligibility for Membership: To be eligible, a faculty member must have at least a 25% allocation of effort assigned to research and creative activity and a successful track record in research and scholarship activity.
   2. Members: The complete University Research Council membership consists of: the officers of the Council (chair, chair-elect, immediate past chair), two faculty members from each college (three from Arts and Sciences), one faculty representative from the library, one representative from each university research institute reporting to the vice president for research, and one representative from the faculty senate. The vice president for research may appoint additional members to represent specified research activities.
   3. Term: Members will serve two-year terms on the council, beginning on July 1 of the year of selection, except for the chair-elect (see below). The terms of college representatives will be staggered such that one person will be selected each year (two in one year and one the next year from the College of Arts and Sciences). Members are eligible for reappointment. If a member is unable to complete a term, the appropriate college dean or, for university research institutes, the vice president for research will arrange for a replacement to fill the position. Selection procedures for faculty representatives will be determined by the individual colleges.

F. **Chair and Other Officers**

   Each year in August or September, the membership will elect a member to serve as chair-elect (who also serves as vice chair) for one year, as chair for the following year, and on the executive committee as past chair for the next year. The member elected as chair-elect will serve a three-year term on the University Research Council beginning on the following July 1. If a college representative is elected as chair-elect, the college will be permitted to select an additional representative to complete the unexpired term. In the event that an officer is unable to complete a term, the membership will

elect a member to fill vacancies. The chair will convene and conduct regular University Research Council meetings on a monthly basis. When the chair is unavailable, the chair-elect or another member designated by the chair will assume these duties.

G. **Executive Committee**
    1. Membership: The executive committee will consist of the chair, chair-elect (who also serves as vice chair), immediate past chair, and faculty senate representative.
    2. Responsibilities: Responsibilities include, but not be limited to: preparing the meeting agenda, appointing subcommittees, and delivering charges to the subcommittees.
    3. Nominating Committee: Early in the spring semester, the Executive Committee will appoint a nominating subcommittee charged with the task of selecting nominee(s) for chair-elect and filling other office vacancies for the coming year.
H. **Resource and Administrative Support**: The Office of the Vice President for Research will serve as the office of record for the University Research Council.

## PART 3: COUNCIL OF ASSOCIATE DEANS FOR RESEARCH (FORMERLY COUNCIL OF RESEARCH CENTERS)

The Council of Associate Deans for Research is an advisory group to recommend research policy, rules and procedures and to coordinate operational research procedures among the colleges, university research institutes, and central research administration. It is chaired by the vice president for research. The council is composed of the associate deans for research of each of the colleges, the director of the Physical Science Laboratory, and the university research council chair, who serves in an *ex officio* capacity.

## PART 4: INSTITUTIONAL REVIEW BOARD

Administrative authority for the protection of human subjects at New Mexico State University has been delegated by the president to the vice president for research. The Office of the Vice President for Research oversees the Institutional Review Board, which has been established to regulate university research involving human subjects, consistent with federal law and university policies, rules and procedures. Prior to submitting an application to the Institutional

Review Board, principal investigators must familiarize themselves with all provisions in **ARP Chapter 11**, any supplemental procedures issued by the Institutional Review Board, guidance available online from Research Integrity and Compliance, and the federal Office of Human Research Protections. Procedures may be amended from time to time by the Institutional Review Board with the approval of the vice president for research.

A. **Membership**

1. Institutional Review Board members are appointed by the vice president for research for renewable three-year terms, upon recommendation from, but not limited to, the institutional review board chair and the director of Research Integrity and Compliance. All members of the Institutional Review Board appointed by the vice president for research will be voting members. A list of the current officers and membership of the Institutional Research Board as well as detailed application procedures are available from Research Integrity and Compliance.
2. The Institutional Review Board chair is appointed by the vice president for research and serves as the link between the Office of the Vice President for Research and the Institutional Review Board. A vice chair will be appointed to conduct business if the chair is unavailable, or has a conflict of interest.
3. The composition of the Institutional Review Board will consist of individuals sufficiently qualified through their experience, expertise, and diversity, including consideration of race, gender, and cultural backgrounds and sensitivity to such issues as community attitudes, to promote respect for its advice and counsel in safeguarding the rights and welfare of human subjects. The Institutional Review Board will not consist entirely of men or entirely of women, or entirely of members of one profession.
4. The Institutional Review Board will primarily be composed of representatives from the colleges and departments most concerned with projects involving human subjects. It will include at least:
    a. one member whose primary concerns are in scientific areas,
    b. one member whose primary concerns are in nonscientific areas, and
    c. one individual who is not employed by or otherwise officially affiliated with the university and who is not part of the immediate family of a university employee.
5. If the Institutional Review Board reviews research protocols that involve a vulnerable category of subjects (e.g. children, prisoners, persons with disabilities), the Institutional Review Board will include

one or more individuals with professional expertise regarding the protection of these subjects.

6. The vice president for research or designee and the director of Research Integrity and Compliance are *ex-officio* non-voting members of the Institutional Review Board. A representative from the Office of the University General Counsel serves as a non-voting consultant to the Institutional Review Board as necessary.
7. The Institutional Review Board may, in its discretion, invite individuals with competence in special areas to assist in the review of issues which require expertise beyond or in addition to that available on the Institutional Review Board. These individuals will be non-voting members. Such non-voting members may include, but not be limited to, expert consultants external to the university and/or additional representatives of the university.

B. **Functions and Responsibilities**

1. The Institutional Review Board will assure complete and adequate review of research activities involving human subjects, and will be able to determine the acceptability of proposed research in terms of institutional commitments and regulations, applicable law, and standards of professional conduct and practice.
2. No member of the Institutional Review Board will participate in the initial or continuing review of any project in which the member has a conflicting interest, except to provide information requested by the Institutional Review Board.
3. The Institutional Review Board must periodically, at least every three years, review university policies and procedures relating to human subjects in research, and make recommendations to the vice president for research.
4. The Institutional Review Board must review all research activities involving human subjects or data related to human subjects. Additionally, the Institutional Review Board has authority to approve, require modification of, or to disapprove proposed research activities involving human subjects.
5. Research activities must be reviewed by the Institutional Review Board for compliance with established federal regulations related to the protection of human subjects, as issued by the U.S. Department of Health and Human Services and the U.S. Food and Drug Administration, and contained in the Code of Federal Regulations 45, Part 46.
6. Research covered by these regulations that has been approved by the Institutional Review Board may be subject to further appropriate

review and approval or disapproval by officials of the university. However, those university officials may not approve the research if it has not been approved by the Institutional Review Board.

7. The Institutional Review Board will provide advice and guidance to investigators regarding the protection of the rights and welfare of human subjects.
8. The Institutional Review Board must ensure that the principle investigators and other researchers have been certified in the ethical principles of using human subjects in research.
9. Where necessary, the Institutional Review Board will serve as a referral board for complaints from subjects of research. Any complaint from a research subject must be reported promptly to the principal investigator and to Research Integrity and Compliance.
10. The Institutional Review Board must require that information given to subjects as part of informed consent is in accordance with federal regulations as indicated in the Code of Federal Regulations 45, Part 46. The Institutional Review Board may require that information in addition to that specifically mentioned in Code of Federal Regulations 45, Part 46, be given to the subjects when, in the Institutional Review Board's judgment, the information would meaningfully add to the protection of the rights and welfare of the subjects. Documentation of that process must also be required. The Code of Federal Regulations outlining requirements for the protection of human subjects is available by contacting the Office of the Vice President for Research.
11. The Institutional Review Board will notify investigators in writing of its decision to approve, require modification of, or to disapprove the proposed research activity. If the Institutional Review Board disapproves a research activity, it must include in its written notification a statement of the reasons for its decision and give the investigator an opportunity to respond in person or in writing.
12. The Institutional Review Board will annually review the status of research covered by these regulations and has the authority to observe or have a third party observe the consent process and the research. The Revised Common Rule eliminated the need for continuing reviews. Researchers working with agencies that did not adopt the changes in the Revised Common Rule must continue to follow their agency's specific guidelines.
13. The Institutional Review Board is authorized to suspend or terminate approval of research that is not being conducted in accordance with the Institutional Review Board's requirements or that has been

associated with unexpected serious harm to subjects. Any suspension or termination of approval must include a statement of the reasons for the Institutional Review Board's action, and must be reported promptly to the principal investigator, to appropriate university officials, and to the federal Office of Human Research Protections.

14. If a research subject registers a complaint, the investigator must attempt to relieve the complaint by explanation or by a change of procedure. Written Institutional Review Board approval is required for procedural changes. Any complaint from a research subject must be reported promptly to the principal investigator and to Research Integrity and Compliance, which may have additional reporting requirements.
15. It is the responsibility of the Institutional Review Board to determine whether applications that involve more than minimal risk to human subjects are of sufficient scientific merit to answer the proposed research questions or hypotheses.

## PART 5: INSTITUTIONAL ANIMAL CARE AND USE COMMITTEE

A. **Membership**

1. Voting members of the Institutional Animal Care and Use Committee are appointed by the vice president for research upon recommendations from the Institutional Animal Care and Use Committee chair and the director of Research Integrity and Compliance. Alternate members who may substitute for a member who will be absent from a meeting may also be appointed by the vice president for research. Alternates must receive the same training as members. If an alternate member attends a meeting with the primary member, the alternate does not count for quorum purposes, nor have voting rights.
2. The Institutional Animal Care and Use Committee chair is appointed by the vice president for research, and serves as the committee liaison to that office. The committee chair is a continuous appointment by the vice president for research, subject to annual confirmation. A vice chair will be selected by the committee to conduct business in the absence of the chair, or in place of the chair if and when the chair has an application before the committee or other conflict of interest.

3. The term of membership on the Institutional Animal Care and Use Committee is a twelve-month renewable period. It is not uncommon for members to serve at least two years; the committee chair and Research Integrity and Compliance may recommend such renewal to the vice president for research.
4. The Institutional Animal Care and Use Committee must include at least five members, at least one of whom is a community member that are not otherwise affiliated with the university. The committee must include a doctor of veterinary medicine with training or experience in laboratory animal science and medicine and program authority and responsibility for activities involving animals at the university, a practicing scientist experienced in research involving animals, a member whose primary work concerns are nonscientific (examples include an ethicist, a lawyer, a member of the clergy), and a community representative who has no other affiliation with the university and has no immediate family affiliated with the university. No more than three members may come from the same college or administrative unit of the university.
5. The vice president for research or designee, the director of Research Integrity and Compliance, and the biosafety officer will be *ex-officio* non-voting members of the Institutional Animal Care and Use Committee.

B. **Functions and Responsibilities**: All use of vertebrate animals must be reviewed and approved in advance by the Institutional Animal Care and Use Committee to ensure the necessity of animal use and high standards of humane treatment. Animal research must be conducted by adequately trained persons using all necessary measures to prevent, minimize and alleviate pain and distress to an animal. Measures will be taken to ensure that no animals in the university's care will experience severe or unrelieved pain and/or distress. All university employees involved in animal use for teaching or research purposes must be certified by the Institutional Animal Care and Use Committee and must participate in the occupational health and safety program for animal workers. Details of these requirements can be obtained from the institutional animal care and use committee chair or from the director of Research Integrity and Compliance. The office of record for Institutional Animal Care and Use Committee activities is Research Integrity and Compliance, within the Office of the Vice President for Research, which is responsible for compliance with federal agency reporting requirements.

## PART 6: INSTITUTIONAL BIOSAFETY COMMITTEE

## A. General Principles

The university, through the Office of the Vice President for Research, has established the Institutional Biosafety Committee which oversees the use of biohazardous agents and/or recombinant nucleic acid molecules by university faculty and staff, or at university facilities. University researchers using or planning to use these materials and methods must submit the scope of their projects to the Institutional Biosafety Committee for approval.

## B. Definitions

1. Biohazardous Agents
    a. Any microorganism (including but not limited to bacteria, viruses, fungi, rickettsiae, or protozoa), or infectious substance, or naturally occurring, bioengineered, or synthesized component of any such microorganism or infectious substance that is capable of causing: (a) death, disease or other biological malfunction in a human, an animal, a plant or another living organism; (b) deterioration of food, water, equipment, supplies, or materials of any kind; or (c) a deleterious alteration of the environment.
    b. Any toxic material or product of plants, animals, microorganisms (including but not limited to bacteria, viruses, fungi, rickettsiae, or protozoa), or infectious substances, or a recombinant or synthesized molecule (whatever the origin and method of production), which includes any poisonous substance or biological product that: (a) may be engineered as a result of biotechnology; (b) produced by a living organism; or (c) is an isomer or biological product, homologue, or derivative of such a substance.
    c. Infectious or pathogenic biological agent defined by: (a) U.S. Centers for Disease Control (CDC as biosafety level 2 or above, or (b) U.S. National Institutes of Health (NIH) as risk group agent 2 or above.
    d. Regulated biological agent or toxin as identified by the Federal Select Agents Program pursuant to the Code of Federal Regulations (CFR) in (a) 42 CFR Part 73; (b) 9 CFR Part 121; or (c) 7 CFR Part 331.
2. Recombinant and Synthetic Nucleic Acid Molecules: As used in the context of the NIH Guidelines: molecules that are (a) constructed by joining nucleic acid molecules and that can replicate in a living cell, i.e., recombinant nucleic acids; (b) nucleic acid molecules that are chemically or by other means synthesized or amplified, including those that are chemically or otherwise modified but can base pair with naturally occurring nucleic acid molecules, i.e., synthetic nucleic acids; or (c) molecules that result from the

replication of those described above.

## C. Membership

1. Voting members of the Institutional Biosafety Committee are appointed by the vice president for research, after consideration of the recommendations from the institutional biosafety committee chair and Research Integrity and Compliance.
2. The institutional biosafety committee chair is appointed by the vice president for research and serves as the committee liaison to that office. The committee will select a vice chair to conduct business in the absence of the chair, or in place of the chair if and when the chair has an application before the committee, or other conflict of interest.
3. The term of membership on the Institutional Biosafety Committee is a twelve-month renewable period. It is not uncommon for members to serve at least two years. The committee chair and the director of Research Integrity and Compliance will make a recommendation for renewal of membership on the committee to the vice president for research.
4. The Institutional Biosafety Committee chair is a continuous appointment by the vice president for research, with an annual confirmation from the committee to the vice president for research. The biosafety officer is a continuous position appointment. The biosafety officer is a professional position that reports to the director of Research Integrity and Compliance.
5. The composition of the Institutional Biosafety Committee should include at least eight members employed by or otherwise affiliated with the university and two community members that are not otherwise affiliated with the university, with the following expertise and/or job duties:
    a. recombinant DNA technology,
    b. molecular biology,
    c. biological safety,
    d. public health and epidemiology,
    e. virology,
    f. microbiology,
    g. infectious diseases,
    h. animal scientist,
    i. plant pathogen or plant pest containment principles,
    j. laboratory technician/non-doctoral, or
    k. facilities management.
6. The community members should represent the interests of the surrounding community with respect to health and protection of the environment and should be knowledgeable in the basic principles of microbiology and recombinant nucleic acid technology, or capable of

assimilating these principles within the context of their applicability to the surrounding community and the general public. Individuals with the following expertise and/or job descriptions should be considered:
    a. officials of state or local public health or environmental protection agencies, or
    b. individuals involved in medical, occupational health or environmental concerns in the community.
7. The Institutional Biosafety Committee may also include *ex-officio* non-voting members who may be invited to serve when their expertise is required and can supplement the deliberations of The Institutional Biosafety Committee. These members must include, and are not limited to, biosafety expert consultants external to the university, and/or additional representatives, usually administrative, from such departments as Environmental Health and Safety; Employee Health Services; Research Administration; Office of the University General Counsel; Facilities and Services; and/or Planning, Design and Construction.

## D. Functions and Responsibilities

1. The Institutional Biosafety Committee is responsible for reviewing all applications submitted by research investigators and their laboratory staff members, teaching faculty, and visiting scientists (collectively defined as PI for principal investigator) whose activities involve:
    a. any biohazardous agent as defined above which can cause disease in humans,
    b. any biohazardous agent which will be introduced into any animal,
    c. any non-exempt recombinant nucleic acid molecules (exempt experiments are defined in the current version of the NIH Guidelines for Research Involving Recombinant and Synthetic Nucleci Acid Molecules,
    d. any large scale production of viable organisms containing recombinant or synthetic nucleic acid molecules, or with the potential to produce toxic or hazardous substances (as defined in the current version of the NIH Guidelines, or
    e. any possession, use, or transfer of the select agents listed on the current National Select Agents and Toxins Registry, which includes HHS Select Agents and Toxins (42 CFR Part 73), USDA Biological Agents and Toxins (9 CFR Part 121), or Plant Pathogens (7 CFR Part 331).
2. The Institutional Biosafety Committee will minimize the risks to the health, safety, and wellbeing of laboratory employees, the public, and the environment regarding the use of biohazardous agents, non-exempt

recombinant or synthetic nucleic acid molecules, and large-scale production of recombinant or synthetic nucleic acid molecules.

3. The Institutional Biosafety Committee recommends policies to guide Principal investigators, the biosafety officer, the NMSU offices of Research Integrity and Compliance, and Environmental Health, Safety and Risk Management in the administration of the university's biosafety program with regard to the acquisition, use, transfer, storage, disinfection, disposal of agents, and emergency response procedures for all biosafety activities. The Institutional Biosafety Committee must ensure that such activities meet best practices standards consistent with safety of personnel, the general public, and the environment, in ways that best facilitate relevant research or teaching activities at the university.
4. The Institutional Biosafety Committee is vested with the authority to comprehensively review, and approve research applications with or without modifications, or withhold approval of all or any part of an application with regard to biological aspects of the research or activity. The Institutional Biosafety Committee may make recommendations for corrective action on protocols.
5. If the biosafety officer's review of a suspected or alleged violation of any university policy, rule or procedure, or of any external regulation that involves "biosafety activities" indicates that the violation is of a serious or continuing nature, the biosafety officer will report such to the Institutional Biosafety Committee. The Institutional Biosafety Committee holds the authority to suspend any project in which serious or continuing violations have been reported. The Institutional Biosafety Committee will notify and coordinate with the affected investigator to rectify the situation. If further action is needed, the Institutional Biosafety Committee will inform Research Administrative Services, which will comply with appropriate federal agency reporting requirements.
6. Upon request, the Institutional Biosafety Committee will review and comment on proposed biosafety regulations, including but not limited to federal, state, and local policies. When appropriate, the Institutional Biosafety Committee will formulate draft policies and procedures for approval by the vice president for research and other institutional officials as needed.
7. The Institutional Biosafety Committee annually reviews the effectiveness of the Biosafety Program and makes recommendations to the vice president for research.
8. The Institutional Biosafety Committee verifies that NMSU research conducted at a non-NMSU facility has been approved by the external facility, and adheres to NMSU biosafety requirements.

# PART 7: RADIATION SAFETY COMMITTEE

A. **General Principles**

1. The use of radioactive materials and x-ray emitting machines at the university is regulated by federal, state, local and university entities. The Radiation Control Bureau of the New Mexico Environment Department (Bureau) is the primary regulatory authority.
2. The Bureau issues Radioactive Material Licenses and X-Ray Certificates of Registration that define the conditions for use of radioactive materials and/or radiation producing devices at university facilities.
3. The university has established the Radiation Safety Committee to serve as a review and approval body for the use of radioactive materials on campus or for university research purposes, and to provide and enforce safety guidelines for the use of radioactive materials or sources and of x-ray generating equipment at the university. University employees responsible for the use of radioactive materials in their research, operations, and/or teaching (whether conducted by employees, students, or others) must submit a proposal of their activities to the Radiation Safety Committee for approval.
4. No program which would involve radioactive materials, nor any acquisition of radioactive materials, will be initiated until the proposal is approved by the Radiation Safety Committee. All staff and students participating in activities involving radioactive materials must meet certain training requirements specified in the Radiation Safety Manual at https://safety.nmsu.edu/lab-safety/radiation-safety/ , and must work within the permit granted by the Bureau and the Radiation Safety Committee's guidelines.

B. **Membership**

1. A minimum of three technical members of the Radiation Safety Committee are appointed by the vice president for research, after consideration of the recommendations from the radiation safety committee chair. The members of the Radiation Safety Committee must be representative of areas of the university where personnel are using radioactive materials or radiation emitting equipment. The radiation safety officer, a regular position in Environmental Health, Safety mad Risk Management, is an official member of the Radiation Safety Committee. All members of the Radiation Safety Committee, including the chair and the radiation safety officer, will be voting

members. The radiation safety officer advises the Radiation Safety Committee on every aspect of the radiation safety program.

2. The radiation safety committee chair is appointed by the vice president for research and serves as the committee liaison to that office. The committee will select a vice chair to conduct business in the absence of the chair, or in place of the chair if and when the chair has an application before the committee, or other conflict of interest.
3. Members of the Radiation Safety Committee are appointed for two-year renewable terms. The radiation safety officer is a continuous position appointment. The Radiation Safety Committee may also include *ex-officio* non-voting members who may be invited to serve when their expertise is required and can supplement the deliberations of the Radiation Safety Committee.

C. **Functions and Responsibilities**

1. The Radiation Safety Committee advises the vice president for research on radiation safety policy, rules and procedures at the university. The Radiation Safety Committee is responsible for reviewing and approving all applications from research investigators and teaching faculty whose activities involve the use of radioactive materials/sources and x-ray generating equipment.
2. The Radiation Safety Committee is vested with the authority to thoroughly review and make recommendations to the vice president of research regarding:
    a. qualifications of applicants requesting permission to use or supervise the use of radioactive materials or radiation equipment;
    b. applicants' training and experience in the context of the plans for the work requested, including consideration of the types and quantities of materials, and the methods of use;
    c. all training courses that an applicant, or first-time user, attends to overcome any deficiencies in training; and
    d. efforts of each applicant to maintain exposure as low as reasonably achievable (ALARA) when considering the use of byproduct material.
3. The Radiation Safety Committee will (a) ensure that the users justify their procedures, exposure potential and that individual and collective doses will be ALARA; and (b) encourage all users to review current procedures and develop new procedures as appropriate to implement the ALARA concept.
4. The Radiation Safety Committee will delegate authority to the radiation safety officer for enforcement of radiation safety policies

and procedures. If the Radiation Safety Committee overrules the radiation safety officer, it will record the basis for its action in the meeting minutes.

5. The Radiation Safety Committee must regularly review, at least annually, radiation policies and procedures and their implementation, and make recommendations to the vice president for research. A quorum for a meeting would require attendance of the chair, the radiation safety officer, and the committee member whose field of expertise is necessary to assure all safety aspects have been addressed.

## PART 8: RESEARCH SECURITY OVERSIGHT COMMITTEE (RSOC)

A. **General Principles:** Certain research data at the university is federally regulated, and all research data must be governed and protected according to applicable laws, executive orders, policies and procedures. A sub-set of this data is protected under one or more security regulations: FISMA, CUI, ITAR, and EAR, henceforth defined as Protected Data. The proper protection, administration and oversight is paramount to satisfying NMSU's contractual, legal, and federal security obligations. The creation of a research security oversight committee (RSOC) is warranted due to the demanding regulations, the esoteric nature of the requirements, complexity in implementation, and administrative overhead necessities. RSOC will play an instrumental role in developing and proposing sensible policies and procedures to protect data and to coordinate institutional improvements within the research community. RSOC will consist of university research stakeholders who help facilitate and assist principal investigators in meeting their respective grant or contract cybersecurity compliance requirements. RSOC will operate under the NMSU's governing ARP rule 15.62 (Protection of Federal Information; FISMA Compliance) directed by NMSU RPM 15.50 (Information Data Security), with governing compliance oversight from NMSU's Chief Privacy Officer in an *ex-officio* capacity.

B. **Vision**: To increase awareness of Protected Data requirements and expectations at NMSU, improve communication, coordination and collaboration within the Research-based realm, and to provide an advisory role to the VPR regarding strategic initiatives, policies, rules, standards and guidelines in these areas.

C. **Mission**: To facilitate the growth of a Protected Data support infrastructure

at NMSU, that is built on communication and collaboration between VPR units and college-level stakeholders and resources. To collect and synthesize Protected Data compliance issues, and propose reasonable policies, rules and procedures to the VPR. Accordingly, RSOC will:

1. Assist principal investigators, proactively, to ensure that security stipulations included in grants and contracts are comprehended, considered and reflected in the proposal effort. This will facilitate compliance in the award and implementation phase.
2. Promote awareness of Protected Data definitions and requirements at NMSU.
3. Develop and disseminate training materials and compliance procedures for PIs and support staff.
4. Marshall NMSU resources towards the establishment of a CUI-centric support infrastructure anchored around Anderson Hall.
5. Work to expand Protected Data expertise in the Colleges.
6. Evaluate existing NMSU policies and rules regarding Protected Data and propose Research-focused improvements.
7. Ensure that support infrastructure meets required NIST standards such as NIST SP 800-171 for CUI work or as required by funding agency.

D. **Terms:**
   1. CUI: Controlled Unclassified Information
   2. EAR: Export Administration Regulation
   3. FISMA: Federal Information Security Management Act
   4. ITAR: International Traffic in Arms Regulations
   5. NIST: National Institute of Standards and Technology
   6. PI: Principal Investigator
   7. Protected Data: Data consisting of one or more of CUI categories such as ITAR, EAR or proprietary information.
   8. RSOC: Research Security Oversight Committee
   9. VPR: The Vice President for Research

E. **Membership:** The Research Security Oversight Committee will be comprised of no more than twelve voting members, including the following:
   1. The heads of the following offices, or their designee:
      a. Vice President for Research,
      b. Information and Communication Technologies,
      c. Physical Science Laboratory,
      d. Arrowhead Center, and
      e. International and Border Programs;
   2. Representatives from Research Support Units:
      a. A member from Research Administration Offices, appointed by

the unit director.
   b. A member from Research IT, appointed by the unit director.
   c. The NMSU export control officer;
   d. A member from the Physical Science Laboratory security office, appointed by the unit director.
3. NMSU Chief Privacy Officer (*ex-officio, non-voting);* and
4. Additional members from the university colleges, when deemed necessary and appointed by the above voting RSOC committee members, not to exceed the maximum count of 12 committee members.

F. **Functions and Responsibilities:** RSOC's role is to provide guidance and advisory support to researchers involved with CUI or export control data and or systems. To accomplish this, the committee will:
   1. Improve communications within the CUI and export control community at NMSU.
   2. Improve collaboration amongst stakeholders in order to reduce compliance burdens on the researcher.
   3. Improve coordination amongst support units and researchers to allow for timely and high quality proposal submissions, cost effective responses to customer needs, and proper management of CUI and export control data.
   4. Recommend development or amendment of NMSU policy, rules or procedures, as appropriate, to ensure compliance with CUI and export control.
   5. Review and recommend changes relating to the evaluation and monitoring of the CUI and export controlled technical data environment.
   6. Develop and disseminate awareness and training material regarding CUI and export control protection requirements system-wide.
   7. Promote the establishment and growth of CUI trained liaisons at the colleges.
   8. Foster the growth of CUI and export control expertise at the college level.

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 11 | Research and Intellectual Property

**Rule Administrator:** VP Research

**Last Updated:** 04/12/2019

## Related

**Cross-Reference:**
**ARP Chapter 11**

**Revision History:**
04/12/2019 Amendment approved by Chancellor
03/13/2019 Amendment approved by Chancellor
2017 Recompilation, formerly Rule 5.94.30
03/14/2011 Amendments approved by Board of Regents
07/20/2010 Amendments approved by Board of Regents
07/29/2009 Amendment ratified by Board of Regents
07/14/2009 Amendment approved by Administrative Council

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 11.05 – Intellectual Property Management and Commercialization

arp.nmsu.edu/11-05

## PART 1: PURPOSE

The IP Office assists NMSU faculty and students throughout the NMSU System to make their greatest scholarly, economic, and social impact through their inventions by the prudent and timely management of intellectual property as described in this rule. This rule implements **RPM 11.05** and **RPM 6.10** B. 13., establishes IP ownership rights and the processes for IP protection, commercialization and technology transfer.

## PART 2: DEFINITIONS

When used in this rule, the following definitions will apply:

A. **Assignee**: The designated party to whom a right or property is legally transferred. For the purposes of this rule, Assignee refers to Arrowhead Center, Inc. (AHC Inc.), which serves as the university's authorized Assignee for the protection, management and commercialization of University IP.
B. **Conflict of Interest:** The actual or perceived impairment of the exercise of objective, unbiased judgment regarding a university employee, placing into question whether or not the employee is acting in the best interest of the university or the best interest of the employee or another private third party.
C. **Copyright:** The intangible property right granted by federal statute to an original work, fixed in a tangible form of expression. Copyright provides the owner with the exclusive right to reproduce a work, to distribute it by sale or otherwise, to display or perform it publicly and to prepare derivative works.
D. **Copyrightable Materials:** Include the following: (1) books, journal articles, texts, glossaries, bibliographies, study guides, laboratory manuals, syllabi, tests, and proposals; (2) lectures, musical or dramatic compositions, unpublished scripts; (3) films, filmstrips, charts,

transparencies, and other visual aids; (4) video and audio tapes or cassettes; (5) live video and audio broadcasts; (6) programmed instructional materials; (7) mask works; (8) research notes, research data reports, and research notebooks; and (9) other materials or works such as Software, Apps, or computer programs which qualify for protection under the Copyright laws of the United States (See 17 U.S.C. 102 et seq.) or other protective statutes whether or not registered thereunder.

E. **Earnings:** Monetary proceeds received by the university from the sale or licensing of IP (e.g. royalties or other form of payment). Earnings do not include: (1) research or development funding, or (2) reimbursements to the university or its Assignee.

F. **Elect Title:** A determination that the IP is eligible for patent, and has potential marketability, in addition to a willingness on the part of NMSU to protect and manage the IP through the term of the IP life. The process for electing title includes completion of the requisite documentation by all parties formally allocating the IP rights between the Inventor and NMSU.

G. **Expenses:** The funds expended or encumbered by NMSU or by its Assignee for the evaluation, protection and management of the IP, including but not limited to: NMSU administrative fees, legal fees, and marketing costs. Expenses do not include costs incurred to develop the invention.

H. **Individual IP:** Intellectual Property in which the university has no ownership interest. Examples of Individual IP include: IP conceived and developed outside the course and scope of employment, without university resources and without corporate, federal or other sponsorship. Individual IP may also include instructional material, scholarly or artistic work created by academic personnel within the course and scope of their employment, if no more than Limited Permitted Use of NMSU resources are used in its development. (See Part 6, Section A.) Individual IP also includes University IP which the university has released from any claim of ownership. (See Part 6, Sections B. 2. and C. 5.)

I. **Intellectual Property (IP):** Potential patentable and copyrightable materials, Trademarks, Trade Secrets, and Software whether or not formal protection is sought. IP includes, and is not limited to, books, articles, plays, films, audio and video works, written lectures, works of art, musical compositions, laboratory manuals, demonstration devices, computer programs, apps, inventions, devices, methods, tangible properties and materials, chemical compounds, new materials or processes, instruments, and rights covering these items, such as Patents, Copyrights, and Trademarks.

J. **Invention:** All original, novel useful processes, machines, compositions,

and other scholarly and artistic creations. Invention also encompasses the application of new solutions to meet unexpected or new requirements, unarticulated needs, or actual market demands, which result in more effective products, processes, services, technologies or business models and are thus more readily available to markets, governments and society.

K. **Invention Disclosure Form (IDF):** A written notice of Invention to the IP Office. An IDF confidentially discloses the Inventor's Invention, whether or not work for hire, so that options for protection and commercialization can be evaluated and pursued.

L. **Inventor:** The faculty member, student, employee, staff member, or other university personnel who develops an Invention. IP may have more than one Inventor; "Inventor" referred to in the singular throughout this rule also refers to multiple Inventors of one Invention, collectively.

M. **Know-How**: Expert skill, information, or body of knowledge that imparts an ability to cause a desired result, is not readily available, and is confidentially held. Know-How may include tangible material (such as blueprints, formulas, instructions, patterns, specifications and Trade Secrets) or intangibles (such as manufacturing practices, marketing concepts, quality control and testing techniques) which are not common knowledge.

N. **Limited Permitted Use:** The use of NMSU resources permitted in connection with the production of instructional materials, scholarly or artistic work, which is limited to the reasonable use of an employee's regularly assigned office or studio space; telephone, computer, printer or similar items used in the normal course of business.

O. **Net Earnings:** For purposes of calculating the amount to be distributed, is the amount of Earnings remaining after the repayment of all Expenses.

P. **Patent:** The right granted under federal statute to the owner of an invention that is novel, useful and not of an obvious nature, to exclude others from producing or using the invention for a limited period of time.

Q. **Patentable Materials:** Includes the following: a process, a machine, a manufacture, or a composition of matter (such as new chemical), a method, operation or series of actions intended to achieve some end or result; a device or apparatus, a thing that is made or built by a human being (or by a machine); a patentable compound of material composed of two or more different substances. Items other than Software which reasonably appear to qualify for protection under the patent laws of the United States (see 35 U.S.C. 101 et seq.) or other protective statutes, including Novel Plant Varieties and Patentable Plants, whether or not

patentable thereunder.

R. **Sponsoring Agency:** An external public or private entity responsible for funding the research and development or other efforts associated with Copyrightable or Patentable Materials.

S. **Trademark:** Includes all Trademarks, service marks, trade names, seals, symbols, designs, slogans, or logotypes developed by or associated with any NMSU entity. (See 17 U.S.C. 1127) A Trademark is a distinctive symbol, logo, picture, sound or word used to distinguish and identify the origin or description of products. A Trademark may also include distinctive and unique packaging, color combinations, building designs, product styles and overall presentations. A Trademark provides the owner with the exclusive right to use it on the product it was intended to identify and often on related products. Service-marks receive the same legal protection as Trademarks but are meant to distinguish services rather than products.

T. **Trade Secret:** Information including, but not limited to, technical or nontechnical data, a formula, a pattern, a compilation, a program, a device, a method, a technique, a drawing, a process, financial data, financial plans, product plans, or a list of actual or potential customers or suppliers which: (i) derives economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and (ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

U. **University IP:** Intellectual Property owned by NMSU. Examples of University IP include Works for Hire, unless otherwise excepted by this rule (See Part 6, Section A.); and inventions produced using NMSU resources in excess of Limited Permitted Use.

V. **Work for Hire:** Intellectual Property created within the Inventor's course and scope of employment with NMSU. A work is a work for hire only if it is prepared by an employee within the scope of employment (as hired to develop); or it is specially ordered or commissioned from an independent contractor pursuant to a written agreement as defined by statutory categories.

## PART 3: ROLES AND RESPONSIBILITIES

The following entities are directly involved in IP, commercialization and technology transfer transactions, and are charged with the responsibilities noted:

A. **Arrowhead Center, Inc.** Arrowhead Center, Inc. (AHC Inc.) is a 501 (c) (3) corporation established by the NMSU Board of Regents, consistent

with the University Research Park and Economic Development Act. Among other activities and responsibilities, AHC Inc. is responsible for technology commercialization activities related to University IP.

B. **Intellectual Property Office (IP Office):** The IP Office is a unit within Arrowhead Center NMSU which protects, manages, and assists with the commercialization of inventions, consistent with this rule.
C. **Inventor:** An inventor is the source of the innovation that drives the processes under this rule. Each Inventor is required to work through their department head or equivalent and/or vice president or dean with the IP Office to ensure compliance with this rule and laws and regulations applicable to IP development, protection and commercialization. This begins with filing the Invention Disclosure Form and preliminary consultation with the IP Office, signing requisite documents, and other evaluation, protection, and commercialization activities.
D. **Human Resource Services:** Human Resource Services (HRS) is responsible for assisting the academic and other departments by providing all NMSU employees with a copy of this rule, as it may be amended, upon hire, and for obtaining an acknowledgment in writing that they have received it and that they will abide by it.
E. **Intellectual Property and Commercialization Board:** The Intellectual Property and Commercialization Board (IPAC) was established in March, 2014 by the chancellor. The IPAC consists of NMSU administrators, staff, and researchers from various colleges, offices, and disciplines, and at least one representative from Arrowhead Center, Inc. See List of University Boards and associated Charter. The IPAC is authorized:
    1. To make recommendations to the IP Office and vice president for research concerning NMSU IP protection and commercialization issues, including but not limited to IP policy, rules and procedures; budget; and promotion of the IP Office.
    2. To serve as a hearing body to assist in the resolution of grievances on IP topics, disputes and ownership and to issue findings and recommendations to the vice president for research.
    3. After evaluation of the market and commercial potential of disclosed Inventions, the IPAC votes to make a recommendation to the vice president for research on the issue of whether NMSU, through its Assignee, should Elect Title to the disclosed IP. The IPAC may also make other recommendations relating to the pursuit of IP protection and commercialization activities.
F. **Research Administration Services (RAS):** Research Administration Services is responsible for working with faculty, staff, and students in establishing and executing contracts and agreements related to IP and technology commercialization (e.g., non-disclosure agreements [NDAs]

and confidentiality agreements [CDAs]. Research Administration Services is also responsible for reviewing and, if necessary, instituting changes to contracts or agreements proposed by external partners in IP and technology commercialization-related activities.

G. **University General Counsel:** University General Counsel is responsible for working with the IP Office and outside patent counsel in the management of NMSU IP, which may involve dispute resolution. University General Counsel is also responsible for processing NMSU Trademark applications and maintaining awarded Trademarks, with the exception of Trademarks affiliated directly with the New Mexico Department of Agriculture and Arrowhead Center, Inc.

## PART 4: OVERVIEW OF IP MANAGEMENT

Observations, experiments or other activities by members of the academic university community often lead to Inventions. Some of these Inventions have potential for commercialization. The IP Office assists with the protection, commercialization of these Inventions and their transfer into the marketplace. This happens in six steps, within three primary phases: 1. Research and Disclosure, 2. Evaluation and Protection, and 3. Commercialization and Licensing. New Inventions may go through all phases and steps in the process, or for a variety of reasons, the IP management process may stop, change or end at any step. The following gives a brief overview; see Parts 5-7 for detailed rules/procedures.

A. **Research and Disclosure (Phase 1-See Part 5):**
    1. **Step One:** Consultation with the IP Office: The Inventor, with their department head or equivalent and/or vice president or dean, or with their supervisors' approval, discusses the invention with staff from the IP Office, before public disclosure, to discuss publishing, making public disclosure, IP protection, the technology transfer process, and whether the invention is Work for Hire. Also the parties will consider and discuss preliminary tasks relating to patent eligibility and possibilities for commercialization and to explore options for moving Inventions from campus to market. If other parties will be affected by the potential future distribution of net earnings, they will be included in the conversation before decisions are finalized or action commenced. Public Disclosure of an Invention may jeopardize the ability and eligibility to protect the IP.
    2. **Step Two**: Formal Submission of IP: The Inventor submits information about the IP in a legal document called the Invention Disclosure Form (IDF) to the IP Office for evaluation.

B. **Evaluation and Protection (Phase 2 – See Part 6):**
    1. **Step Three**: Determination of IP Ownership: The IP Office evaluates the Invention Disclosure Form and, in consultation with the appropriate dean or equivalent and other party who may be affected by a potential future distribution of net earnings, makes the preliminary determination relating to IP ownership.
    2. **Step Four**: Election of Title: The IP Office evaluates the Invention's eligibility for protection, the market potential, and maintains the IP documentation file. The IPAC receives and reviews the IP documentation, hears from the Inventor, and makes a recommendation on Election of Title. The vice president for research considers the IPAC's recommendation, the IP documentation file, position of the Inventor, and issues a written determination indicating whether or not NMSU will Elect Title.
    3. **Step Five**: IP Protection: The IP Office takes steps to obtain legal protection and initiates opportunities to commercialize the IP.
C. **Commercialization and Licensing (Phase 3 – See Part 7):**
    1. **Step Six**: Commercialization: The IP Office executes the technology transfer process, manages and administers the legal, financial and business documentation, and distributes Net Earnings generated from commercializing the University IP, when realized.

## PART 5: RESEARCH AND DISCLOSURE (PHASE 1)

The first phase of the technology transfer process is Research and Disclosure. This Part addresses what each Inventor must do once it is realized that the Inventor's work has led to an Invention which may require IP protection.

A. **Step 1 – Consultation with the IP Office**
   The first step within the Research and Disclosure phase is for the Inventor, their department head or equivalent and/or vice president or dean and any other party affected by the potential future distribution of net earnings to contact the IP Office. Communication with the IP Office staff is the first step to determining if the research has led to an Invention, with discussion of disclosing the Invention, public disclosures, funding of the research, determining ownership, eligibility for protection and the Inventions commercialization potential.
B. **Step 2 – Formal Submission of IP**
   An Invention Disclosure Form is the written notice of Invention to the IP Office that begins the formal technology transfer process. The Invention Disclosure Form confidentially discloses the Invention in its entirety so that options for protection and commercialization can be evaluated and

pursued. Submission of the Invention Disclosure Form, signed by the Inventor and appropriate supervisors, begins the formal process.

1. **Submission of IP**: All University IP must be submitted for evaluation to the IP Office by the Inventor. Any uncertainty about whether IP is University IP should be resolved by submitting the IP for evaluation. Submission should be done using the appropriate form and in accordance with the guidelines posted at **www.IP.nmsu.edu**. IP Office staff will examine the disclosed materials in a timely manner and respond to Inventor to avoid a delay in publication or disclosure (as appropriate).
2. **Multiple Inventors:** Where multiple inventors have participated in the development of University IP, they each must sign an agreement specifying their relative contributions on a percentage basis. Where individual inventors cannot agree on their relative percentage contributions, the dispute resolution process will be utilized, in order to determine in advance the collective and individual percentages of the IP. (See Part 8)
3. **University Assistance with Individual IP:** Individual IP may be submitted to the IP Office to explore the feasibility of the university assisting with the protection and commercialization of the IP. If the university agrees to provide such assistance, the Inventor must assign their rights in the IP to the university, and such IP will become University IP, and processed in the same manner as any other University IP.

## PART 6: EVALUATION AND PROTECTION (PHASE 2)

The second phase of the technology transfer process is Evaluation and Protection. Part 6 addresses determination of ownership rights, Election of Title and initiation of processes to protect the IP.

A. **Step 3: Determination of IP Ownership**
   1. Factors Relevant to Ownership Determination: The determination of IP ownership hinges in large part on whether or not the Invention is Work for Hire, falls within the exception to Work for Hire set forth in this subsection, or is Individual IP. To determine this, the terms and conditions of the Inventor's employment, and the extent to which NMSU resources, personnel, or facilities were used in the development of the Invention will be examined. Considerations may also include external funding sources and any agreement related to the creation of the IP. An invention produced as a Work for Hire is University IP, unless it is a Copyrightable Material developed by academic personnel that is an instructional

material, or other artistic or scholarly work developed using no more than Limited Permitted Use of NMSU resources, in which case, the invention is not considered a Work for Hire, and will be recognized as Individual IP. (This is referred to as the exception to the Work for Hire rule.) The following is provided as guidance, with additional information and guidance available at the IP Office:

a. University IP: Except as otherwise provided in this rule, if any one of these three criteria are met, the IP will be University IP:
    i. The IP was developed during the university employee's regular work hours;
    ii. The IP was developed with university resources in excess of Limited Permitted Use, or
    iii. The IP was developed as part of the university employee's job duties for the university.
b. Contract Considerations:
    i. Grants and Contracts: Ownership of IP developed as a result of projects funded by a contract or grant properly executed by NMSU will be determined in accordance with the terms of the contract or grant.
    ii. Individual or Third Party IP rights recognized in an agreement executed by the board of regents, the chancellor, or the executive vice president and provost prior to the effective date of this rule will remain in force and effect.
    iii. Commencing with the effective date of this rule, No agreement purporting to bind the university with regard to IP ownership, including but not limited to grants and consulting agreements, will be valid unless the IP Office has reviewed and provided a recommendation to the vice president for research, who is a signatory to the agreement, along with the proper university official per the chancellor's Signature Authority Table (See **RPM 1.30**)
c. Consulting Activities (See Also **ARP 6.92 Faculty Consulting** and **ARP 6.91 Staff Consulting**)
    i. IP developed by a member of the faculty or by an exempt staff member (1) during that person's approved consulting activities and (2) without the use of university resources beyond the Limited Permitted Use will be Individual IP.
d. Instructional Materials:
    i. Generally, Copyrightable Materials developed with no

more than Limited Permitted Use of NMSU resources, for courses offered by NSMU, will be Individual IP.

ii. Copyrightable Materials created at the request of the university under a specific contract or for supplemental pay (e.g. development of distance learning courses) will be University IP.

e. Student Work:

i. Copyrightable or Patentable Materials developed by a student to earn credit in university courses, or otherwise to satisfy university degree requirements, will be Individual IP, unless the cost of development of the materials covered by NMSU substantially exceeds the amount regularly spent assisting students in courses of the same type. In such cases, prior to initiating any effort to promote the creation and prior to incurring Expenses, NMSU will enter into an agreement with the student.

ii. IP developed by a student pursuant to research activities performed under a university research contract or grant, or for which the student is compensated by the university (student employment) will be University IP, or may be third party IP as provided by contract or grant.

f. Artistic, Literary and Scholarly Works:

i. Generally, Copyrightable Materials developed without more than Limited Permitted Use of NMSU resources will be Individual IP. Examples include books, articles, and other publications, works of art, literature and music recordings.

ii. Copyrightable Materials developed pursuant to a university research contract or grant, or for which the employee is separately compensated by the university (contract or supplemental employment) will be University IP, or may be third party IP as provided by contract or grant.

g. Works for Hire: Works for Hire, unless excepted as described above, will be University IP.

2. Procedures:

a. The IP Office in consultation with the Inventor and the appropriate supervisors will consider the facts relating to the disclosed IP and render a determination of IP ownership in accordance with this rule. The determination may be contested by any involved party. (See Part 8)

b. Once IP ownership has been determined and is not subject to any pending internal grievance or appeal, the parties will execute the appropriate documentation to release claim of ownership consistent with the determination:
    i. In the case of a determination of Individual IP, NMSU will not assert any claim to the IP, which provides the Inventor full authority to use or dispose of the Individual IP without further university involvement.
    ii. In the case of a determination of University IP, the Inventor will release any claim to the IP which might be asserted by the Inventor, and will provide NMSU and its Assignee full authority to use or dispose of the University IP. The Inventor will be involved throughout the technology transfer process to protect and commercialize the IP.

B. **Step 4: Election of Title**

The eligibility of the Invention for IP protection, the commercial potential of the Invention and whether NMSU will Elect Title to the Invention is also determined within the second phase of the technology transfer process (Evaluation and Protection). The following procedures apply:

1. The IP Office, in coordination with the Inventor, evaluates the eligibility for IP Protection. Inventions that are eligible for protection and have the potential for commercialization will be presented to IPAC for evaluation and recommendation regarding Election of Title.
2. The IP Office and/or the Inventor present the disclosed IP and pertinent facts to the IPAC. The Inventor may excuse, without stating any justification, one member of the IPAC for any reason. If the Inventor or the IP Office believes that any member of the IPAC has an actual conflict of interest, and the Inventor has already excused a member, that issue will be resolved separately. IPAC Board members must be able to serve in an objective and impartial manner, which may involve the recusal of a member with a conflict or the excusal by the vice president for research and replacement of that member with a designee.
3. The IPAC will evaluate the commercial potential of University IP at or after the presentation by the IP Office and Inventor. The IPAC will issue its recommendation to the vice president for research on the issue of whether the university should Elect Title to the University IP.
4. The vice president for research is not bound to the recommendation of the IPAC. The vice president for research issues a written determination indicating whether or not the

university will Elect Title, and if the determination is not consistent with the recommendation of the IPAC, explains the basis for the determination.

a. If the vice president for research finds that there is adequate potential for commercial application of the technology or finds that there is a potential market for the licensing of the IP, the vice president for research will Elect Title.
b. If the vice president for research finds there is not adequate potential for either licensing or commercialization, but an academic college or other NMSU entity support Election of Title based on academic value of the disclosed IP, then the Inventor and the Inventor's Dean or equivalent will contact the IP Office to initiate the process to fund the Election of Title.

5. If the vice president for research determines not to Elect Title, the vice president for research is authorized to release to the Inventor, on behalf of NMSU, any claim that might be asserted by the university to the IP. This does not apply in the instance of federally sponsored research, in which case the university's rights are transferred to the Sponsoring Agency. In such cases, the Inventor may request assignment of rights from the Sponsoring Agency.

C. **Step Five: IP Protection or Subsequent Return of the IP**

Also within the second phase of the technology transfer process (Evaluation and Protection), NMSU through the IP Office will protect the IP. There are several manners in which IP can be protected including but not limited to the application of Patents, Copyrights, Trademarks, and Trade Secrets through protection granting agencies such as the United States Patent and Trademark Office and the United States Copyright Office.

1. Formal Assignment by Inventor: The Inventor will retain authorship or inventor rights, which will be recognized on the patent or copyright, but must assign ownership rights to the University IP to NMSU and its Assignee as part of protection and commercialization processes. The Inventor will execute an assignment document provided by the IP Office to protect the IP, and will cooperate in all matters relating to the IP so that the university or its Assignee is able to pursue legal protection, technology transfer and commercialization.
2. Return by NMSU to Inventor of the Elected IP: If at least two (2) years have passed from the date the university determined it would Elect Title, or the university or its Assignee, along with the Inventor has not been successful in reaching its goals, or is not willing to expend the resources necessary to protect and

commercialize the IP, then the Invention may be released to the Inventor(s) (and becomes Individual IP).

a. An Inventor interested in protecting and commercializing the Invention, may engage in an agreement with the university for release of ownership rights and any financial obligations associated with the IP.
b. The Inventor may request that the university and its Assignee return their rights in such IP to the Inventor.
    i. Such requests must be submitted in writing to the vice president for research and the IP Office.
    ii. If the university and its Assignee have no plans to commercialize, the vice president for research will relinquish the university's claim and assign its rights in such IP to the Inventor or Sponsoring Agency.
    iii. If the university or its Assignee can demonstrate progress with pursuing legal protection and/or commercialization, such request may be denied, or an agreement may be reached relating to reimbursement of the university for its Expenses prior to relinquishing its claim.

## PART 7: COMMERCIALIZATION AND LICENSING; DISTRIBUTION OF EARNINGS (PHASE 3)

### Step 6: Commercialize

A. **Decision regarding Business Setup**: The move to establish a new company or work with an existing business is a joint decision made by the IP Office and the Inventor.
B. **Role of IP Office**: The IP Office will manage and administer the associated legal, financial and business aspects relating to IP protection, commercialization and technology transfer for current, non-expired IP protected Inventions.
C. **Marketing Strategies**: The IP Office utilizes a variety of sources and strategies to identify potential licensees and commercialize Inventions. Sometimes existing relationships of the Inventor, other researchers, and IP Office staff are useful in commercializing an Invention. Inventor active involvement dramatically improves the chances of matching an Invention to an outside company.
D. **License Agreement**: The process of commercialization may begin with a license agreement that protects NMSU's rights to ownership and enables a third party to bring the Invention to the public.
E. **Distribution of Net Earnings**: Net Earnings received from the terms of

a license or other agreement will be distributed to the Inventor and to the University as follows:

1. Earnings will first be used for recovery of all Expenses incurred by the university or its Assignee to protect, manage, and commercialize the IP (including legal, management and marketing fees and any grant awarded to the Inventor for development of their IP).
2. Net Earnings when realized will be used to repay direct costs incurred by the Inventor for producing the material under any material transfer agreement.
3. Net Earnings will be distributed as follows: the Inventor will (collectively) receive fifty percent (50%) of Net Earnings and the university will receive 50%.
4. The Net Earnings received by the university will be further distributed with 33.3% assigned to the Inventor's college or appropriate division, 33.3% to the Inventor's department, or appropriate division; and 33.3 % to the Office of the Vice President for Research.
5. Where more than one inventor contributed to the development of the IP, the Inventor's share (50%) of the Net Earnings will be distributed to each individual inventor according to their relative percentage contribution to the development of the IP, as previously established.
6. Where IP was developed with contributions from individual inventors from more than one college, division, or department, the portion of the college and department shares set forth above will be further divided in proportion to the respective individual inventor's relative percentage contribution.

## PART 8: DISPUTE RESOLUTION

The following section establishes the process by which disputes relating to intellectual property rights or ownership at NMSU will be resolved.

A. **Dispute Resolution Process:** Any party with a claim or complaint relating to IP management must utilize this rule's dispute resolution process. The IPAC will convene to hear parties' complaints as provided in this rule. Examples of types of issues which may be submitted to it include but are not limited to: ownership rights, distribution of funds, and decisions about the pursuit or non-pursuit of legal protection or commercialization.
B. **Initiation of Complaint:** A Complaint Resolution Request form must be completed and turned in to the IP Office. The form must provide the

reason for the request, the name of requestor, the details of complaint and requested resolution. A copy of the Complaint must also be sent by the complainant to the employee's dean or equivalent or to the student's supervising faculty, as appropriate.

C. **Administrative Hearing**: The IPAC serves as the official hearing body, which hears from the parties, reviews the evidence presented and assertions made by the parties, and renders findings and recommendations to the vice president for research. Consistent with this rule, the IPAC may establish additional procedures to more specifically address mediation and/or hearing procedures for the orderly presentation and resolution of matters brought to it. When the IPAC convenes a dispute resolution hearing, the follow procedures will apply:
    1. The IPAC chair will provide the parties at least ten business days' notice of the hearing date and time, and members of the hearing panel by name and job position or role in the university community. Each complainant must be given an opportunity to excuse a member from the hearing panel, for cause or no cause. Should a complainant believe there remains a conflict of interest on the part of any remaining member of the IPAC, the provisions of No. 4 below will apply.
    2. The IPAC will conduct an informal hearing within 30 business days (unless this time limit is extended by the IPAC, with notice to the parties) from the date the request for a hearing is submitted by the aggrieved party. The hearing will be audio- recorded.
    3. The IPAC will review the documentation or other evidence provided by each party, convene a hearing to allow the parties to present, and render written factual findings and separate recommendations, if any.
    4. The IPAC will conduct a fair hearing, which includes resolution of ethical issues which might be raised concerning a member of the IPAC. Such issues (e.g., conflict of interest on the part of a member of the IPAC) should be raised and resolved prior to the hearing or as soon as it is brought to the IPAC's attention. In the event of an actual or perceived conflict, the affected IPAC member will recuse him or herself. If the IPAC member will not voluntarily recuse, the IPAC will hear from all parties and the member accused of the conflict, and vote regarding whether or not the IPAC reasonably could serve impartially and fairly in the matter at issue.
    5. The IPAC will follow any additional hearing procedures it may adopt, and maintain order during the hearing process. In the absence of any additional written procedures to this rule, the chair will maintain order. Procedural questions raised by any participant will be decided by the IPAC after hearing the position of

each party on the issue in contention, discussion and deliberation amongst the IPAC members. The IPAC may meet apart from the parties to deliberate on the procedural question and may consult by phone with General Counsel. The decision on the procedural question will be decided by a vote of the IPAC after re-convening the hearing with all parties.

6. The hearing will be audio-recorded; the audio recording becomes part of the dispute resolution record, along with the complaint resolution request; position statement from respondent, if any; other documentation or evidence tendered by the parties for the IPAC's consideration; and the findings and recommendations by the IPAC. The IPAC will not consider evidence outside of the hearing. Trade Secret or other confidential proprietary information or other disclosed IP which merits heightened protection from public disclosure will be labeled as such in the record.
7. To ensure impartiality, the IPAC members must not communicate with either party or associated supervisor before or at the hearing unless through the chair and with both parties present.
8. The IPAC members are expected to respect the privacy of the parties, and the confidentiality of the disclosed IP, and will not discuss the matters in dispute with third parties, except for university officials with a legitimate need to know. The parties and their supervisors are subject to these same requirements.
9. Absent the need for a time extension being required for extenuating circumstances, with notice to the parties, the IPAC's findings and recommendations will be provided to the vice president for research within 15 business days from the date of the hearing.

D. **Issuance of Determination**: The vice president for research will review the findings and recommendations, the record from the hearing, and issue a decision to the parties, with a copy to the University General Counsel. The decision will inform the parties of their right to appeal the decision to the Office of the Chancellor within ten business days from receipt of the decision.

E. **Right to Appeal; Appeal Procedures and Final Decision:** The decision of the vice president for research may be appealed by either party. A written request for appeal, attaching a document outlining the basis for the appeal, must be submitted to the Office of the Chancellor, with a copy to all parties, the vice president for research and the University General Counsel, within ten business days from receipt of the decision. Any party may submit a response to the appeal document within ten business days from receipt of the copy of the request for appeal. The chancellor's review will be based on the written and audio recorded

record, the argument of the parties contained in the written submissions. A final decision will be within thirty business days from date the Office of the Chancellor received the responses to the appeal and the record (to be provided by the IPAC chair), whichever is later, which time deadline may be extended based on scheduling or other circumstances, with notice to the parties.

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 11 | Research and Intellectual Property

**Rule Administrator:** VP Economic Development

**Last Updated:**
03/13/2019

## Related

**Cross-Reference:**
**RPM 1.30 – Delegation of Authority**

**RPM 6.10 – Faculty and Academic Administrators**

**RPM 11.05 – Intellectual Property Management**

**ARP 6.91 – Staff Consulting**

**ARP 6.92 – Faculty Consulting**

**Revision History:**

03/13/2019 Amendment approved by Chancellor

2017 Recompilation, formerly Rules 11.05 and 4.05.60

02/16/2017 Rule rewrite approved by Chancellor

10/21/2015 former Policy 5.94.20 replicated by Board of Regents as initial Rule 5.94.20

03/14/2011 Amendment to Policy 5.94.20 approved by Board of Regents

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 11.19 – Faculty Distribution of Effort

arp.nmsu.edu/11-19

There are competing demands on the energies of a faculty member (for instance, research, teaching, committee work, outside consulting). The way in which a faculty member divides effort among these various functions does not raise ethical questions unless the university or government, industrial, or business agency supporting the research is misled in its understanding of the amount of intellectual effort actually devoted to the research in question. A system of precise time accounting is incompatible with the inherent character of the work of a faculty member, since the various functions performed are closely interrelated and do not conform to any meaningful division of a standard work week. On the other hand, if the research agreement contemplates that a staff member will devote a certain fraction of effort to the government, industrial, or business sponsored research, a demonstrable relationship between the indicated effort of responsibility and the actual extent of involvement is to be expected. Research administering agencies in the university have established simple procedures of accounting which indicate the proportion of the investigator's time spent on sponsored research. Each administering agency will inform the investigator of the procedures developed to assure that proposals are responsibly made and complied with.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 11 | Research and Intellectual Property

**Rule Administrator:** Executive VP and Provost

**Last Updated:** Not Available

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 3.31

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 11.20 – Responsibilities and Accountability for Sponsored Project Awards

arp.nmsu.edu/11-20

## A. Administrative Responsibility

1. **Principal Investigator Defined**: The principal investigator is the individual responsible for the intellectual direction of a research project and the training of graduate students. This responsibility includes the conduct of the project, fiscal and administrative accountability, and adherence to the requirements of all relevant laws, regulations, policies, procedures and agreements. If a project has multiple investigators (lead principal investigator and co-principal investigators), they shall share the responsibility and accountability for leading and directing the project, both intellectually and logistically.
2. **Eligibility to Serve as a Principal Investigator**: Eligibility to serve as a principal investigator on an externally sponsored award is generally limited to those regular employees of the university including: (a) those with faculty rank, including college faculty and research faculty as well as administrators with faculty rank such as (but not limited to) the president, executive vice president and provost, vice presidents, deans, and associate deans, and (b) research and development technical staff. There may be instances when it is in the best interest of the university to have other persons serve as principal investigators, such as temporary employees, affiliated faculty or emeritus faculty. Exceptions to the requirements that a principal investigator must have both (a) regular employee status and (b) either faculty rank or employment as research and development technical staff may be made with written approval of both the relevant dean or director, and the vice president for research. A student may serve as a co-principal investigator, but may not serve as the lead principal investigator on a project.

## B. Sponsored Project Proposal Process

1. **Proposal Preparation**: Proposal preparation is the responsibility of principal investigators and their units, working in cooperation with the Office of Grants and Contracts. The Proposal/Award Form or a similar automated system, as designated

by the vice president for research, will be used by all principal investigators and project directors seeking externally sponsored project funding. This form will be processed in the early stages of proposal development. This is a mandatory form, and no research proposal will be signed or sent out from the university unless this form is signed by the appropriate administrative officers or designated representatives. Responsibility for proposal preparation includes developing budgets consistent with relevant cost accounting standards and obtaining appropriate certifications, permits (*g.*, for drug use), and permissions *(e.g.*, use of humans and animals in research).

2. **Proposal Submission**: Proposal submission is the sole responsibility of the Office of the Vice President for Research. Principal investigators should timely submit funding proposals through their unit to the Office of Grants and Contracts, with sufficient advance notice to allow for their proper review, approval and submission to funding agencies.

## C. Acceptance of Sponsored Project Award

Award documents are received by the Office of Grants and Contracts for final review, negotiation and formal acceptance. Only the vice president for research (or designee) has the authority to accept an award, negotiate and to sign award agreements related to sponsored programs, including amendments, modifications, budget changes, principal investigator changes, and extensions to existing agreements.

## D. Maintenance of Sponsored Project Records

Records of sponsored project awards and related certifications, permits and permissions, as well as of non-financial deliverable reports to sponsors, are maintained by the Office of the Vice President for Research through the Office of Grants and Contracts. This includes coordinating the production, submission and retention of reports and records generated in the closeout of sponsored award agreements. Financial records of sponsored awards and related reports, invoices and financial reports, are maintained by the Office of Administration and Finance, primarily through the Sponsored Projects Accounting Office.

## E. Accountability for Sponsored Award Transactions

Transactions on sponsored project awards shall be approved by the principal investigator and the dean, director, or designee of the college or other unit. The Sponsored Projects Accounting Office, in cooperation with the principal investigators and their respective units, fiscally monitors sponsored awards, reviews and prepares financial reports, and receives and disburses funds.

## F. Accountability for Property Acquired through a Sponsored Project Award

The principal investigator, department head, dean or director, and university property administrator shall be accountable for acquisitions and dispositions of equipment and other property acquired through sponsored project awards. Any such property will be recorded on the university's inventory at a minimum, for property to which the university does not acquire title, until the expiration of the award period. A determination as to whether title to property acquired under sponsored awards vests with the sponsor or with the university at the end of the award period should be included in the award agreement, rather than negotiated at award termination. The university property administrator will be kept informed of any amendment to the initial determination regarding property ownership, so that the university's inventory may be updated and the necessary final property reports prepared.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 11 | Research and Intellectual Property

**Rule Administrator:** VP Research

**Last Updated:** 03/14/2011

## Related

**Cross-Reference:**
RPM - Title 11 | Research and Intellectual Property

**Revision History:**

2017 Recompilation, formerly Rule 5.94.40
03/14/11 Amendments approved by Board of Regents

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 11.30 – Addressing Allegations of Misconduct in Research

arp.nmsu.edu/11-30

## PART 1: DEFINITION OF RESEARCH MISCONDUCT

Research misconduct is academic misconduct, dishonest behavior, or any form of unethical practices involving an act of deception whereby one's work or the work of others is misrepresented. Other terms, such as research fraud or scientific misconduct, are subsumed within the term academic misconduct. Research misconduct is distinguished from honest error and from ambiguities of interpretation that are inherent in the scientific process. The principal element of research misconduct is the intent to deceive others or misrepresent one's work. Research misconduct may also involve wrongful acts or omissions relating to non-compliance with applicable law or regulation, a failure to report known misconduct or retaliation against others involved in the reporting, investigation or correcting misconduct. Research misconduct may take numerous forms such as, but not limited to:

A. **Falsification of Data**: Fabrication, willful suppression and/or distortion of data with the intent to falsify results.
B. **Plagiarism**: The use of the work of another without proper acknowledgment.
C. **Improprieties of Authorship**: Improper assignment of credit, such as excluding other authors, inclusion of individuals as authors who have not made a definite contribution to the work published, or submission of multi-authored publications without the concurrence of all authors.
D. **Misappropriation of the Ideas of Others**: Unauthorized use of privileged information (such as violation of confidentiality in peer review), however obtained.
E. **Violation of Generally Accepted Research Practices**: Deceptive practices in proposing, conducting, or reporting research.

F. **Material Failure to Comply with Governmental Requirements**: Serious, repeated, willful violations of governmental requirements arising from law, statute, regulation, or agreement. Regulations include, but are not limited to, those governing the use of funds, care of animals, human subjects, and biological, chemical, pharmacological, and radiological materials.
G. **Inappropriate Behavior in Relation to Research Misconduct**: Unjust and malicious accusation(s) of misconduct, failure to report misconduct, withholding or destruction of information or evidence relevant to a claim of misconduct, or malicious retaliation against persons involved in the allegation or investigation of misconduct.

## PART 2: SCOPE OF RULE

This rule applies throughout the university system to faculty, staff and students involved in research and research-related work regulated by federal law or sponsored externally. Such research includes, but is not limited to, research involving human subjects, vertebrate animals, biohazardous agents and/or recombinant DNA. Research projects involving the surveying of other students, university personnel, or members of the general public fall within the scope of this rule, unless exempted by federal law. Academic misconduct alleged against a student generally will not be covered by this rule, unless it falls within the above scope, and will instead be addressed pursuant to the Academic Misconduct policy housed in the ***NMSU Student Handbook***.

## PART 3: DUTY TO REPORT

Individuals with a reasonable factual basis to believe that a researcher has committed an act of research misconduct prohibited by this rule are obligated to report such occurrences to a supervisor not involved in the alleged misconduct. Such reports of suspected research misconduct shall be forwarded to the vice president for research for prompt investigation, and subsequent corrective action and reporting, if warranted by the investigative findings. If the reporter, the supervisor, or the vice president have reason to suspect that a crime may have been committed, the report shall also be made to the NMSU Police or other appropriate law enforcement for a separate and distinct criminal investigation**.** *(See also* Parts 9 and 10 below.)

## PART 4: PRELIMINARY INTERNAL INVESTIGATION

If an appropriate oversight committee (Institutional Review Board, Institutional Animal Care and Use Committee, Institutional Biosafety Committee, or Radiation Safety Committee) reports misconduct substantiated by an investigation with factual findings, this shall serve as the internal preliminary investigation.

In all other cases, the vice president for research will refer the reported matter to the appropriate college dean and associate dean for research, or equivalents, to conduct a preliminary internal investigation into the alleged misconduct. The investigation will be conducted confidentially.

Within twenty (20) business days from the initial receipt of the report of potential academic misconduct, the evidence and any recommended findings shall be forwarded to the vice president for research. During the preliminary investigation stage, the funding agency will not be notified, except as may be otherwise required by law or written agreement.

## PART 5: ACTION ON RESULTS OF PRELIMINARY INVESTIGATION

The vice president for research shall consider the evidence and the recommended findings of the preliminary investigation, and initiate further action as follows within twenty (20) business days from the date the evidence and the findings were received.

A. If the vice president for research concludes that no infraction occurred, the matter will be dismissed. This decision, including all supporting documentation, will be reported to the Office of University General Counsel.
B. If the vice president for research concludes that an infraction occurred, but was not an unanticipated problem, did not involve serious or continuing non-compliance with federal regulations or university policy, rules or procedures, and did not involve a suspension or termination of an approval granted by the appropriate oversight committee, the vice president for research will refer the matter to the college dean or appropriate vice president for disciplinary action or other administrative corrective action, as warranted by the factual findings.

C. If the vice president for research concludes that the matter may involve an unanticipated problem, a serious or continuing non-compliance issue, or a suspension or termination of an approval granted by the appropriate oversight committee, the vice president for research shall refer the matter for a confidential formal investigation, at which time the funding agency and/or the appropriate federal or state oversight agency will be notified by way of an Initial Report. The Initial Report shall indicate that either follow up reports or a final report, or both, will be forthcoming as soon as practicable under the circumstances.
D. If the vice president for research concludes that a crime may be implicated, the matter shall be immediately reported to the appropriate law enforcement agency for a separate and distinct criminal investigation.

## PART 6: FORMAL INVESTIGATION

The confidential formal investigation will be conducted by an ad hoc committee to be convened and chaired by the vice president for research. The committee shall consist of the appropriate college dean and associate dean for research or equivalents, the appropriate department head, and three faculty or exempt staff members from the University Research Council, selected by the university research council chair. Substitutions, in the event of conflict of interest, will be made by the vice president for research or the executive vice president and provost, as appropriate. This formal investigation should be completed within two months from the date the committee is formed. The committee shall gather relevant documentation; interview witnesses with relevant testimony, including the person charged with the misconduct; preserve any physical evidence; and prepare an investigative report summarizing all evidence in the form of factual findings. The final draft investigative report shall be shared with the person charged with the misconduct, and that person shall be given a minimum of five business days to respond.

## PART 7: ACTION ON RESULTS OF FORMAL INVESTIGATION

Consistent with the results of the formal investigation, the vice president for research and/or the appropriate college dean or vice president shall take appropriate, university-wide corrective action to ensure that similar incidents do not recur, and shall coordinate with the Office of Human Resource Services regarding disciplinary action, if any, to be taken.

## PART 8: NOTIFICATIONS AND RECORD RETENTION

All documentation of the preliminary inquiry and formal investigation, if any, shall be maintained in the office of the vice president for research for at least three (3) years and must, upon request, be provided to authorized government personnel. The university shall comply with notification requirements imposed by funding agency regulations and agreements.

## PART 9: ANTI-RETALIATION

In order to protect the positions and reputations of those persons who, in good faith, report reasonably suspected academic misconduct in research, the university prohibits retaliation in any form to be taken against the reporter or any person who cooperates in the investigative process. A complaint of suspected retaliation will also be cause for the initiation of a separate internal investigation to be conducted in coordination with the Office of Human Resource Services, and if substantiated, will be grounds for disciplinary action, up to and including termination of employment.

## PART 10: FALSE OR UNFOUNDED COMPLAINTS

If the preliminary or formal investigative report reflects that the complaint of academic misconduct in research was not substantiated, the university will make efforts to restore the reputations of the researcher who was accused of having engaged in misconduct. Additionally, and depending upon the circumstances, the university may initiate a separate internal investigation in the event the investigative report indicates that the initial complaint or any testimony given as part of the internal investigation, may have been intentionally falsified. If deliberate falsification of such a complaint or testimony is substantiated, it will be grounds for disciplinary action against the false reporter, up to and including termination of employment.

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 11 | Research and Intellectual Property

**Rule Administrator:** Executive VP and Provost

**Last Updated:** Not Available

## Related

**Cross-Reference:**
ARP 10.50 - Faculty Alleged Misconduct Investigation, Discipline, and Appeals Processes

**Revision History:**
2017 Recompilation, formerly Rule 5.94.10

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 11.50 – Hemp Research, Extension, and Outreach Activities

arp.nmsu.edu/11-50

## PART 1: PURPOSE

The purpose of this rule is to further the state's interest in implementation of its Hemp Manufacturing Act, and to provide New Mexico State University (NMSU) employees with guidance on permissible research, extension and outreach regarding hemp, consistent with both state and federal law as it continues to be developed. For New Mexico law and regulations on hemp cultivation, see **http://www.nmda.nmsu.edu/home/laws-regulations/agricultural-environmental-services-statutes-rules/**

## PART 2: DEFINITIONS

**Hemp**: For purposes of these guidelines, hemp is defined the same as in the 2018 Farm Bill Act: the plant *Cannabis sativa* L. and any part of the plant, whether growing or not, that contains a delta-9 tetrahydrocannabinol (THC) concentration of **not more than 0.3 percent on a dry weight basis.**

## PART 3: HEMP-RELATED RESEARCH PERMITTED AT NMSU

NMSU faculty may only perform research that involves hemp if such research complies with federal guidelines and state law. Hemp related research may be conducted pursuant to either the (1) Controlled Substance Act or (2) the 2014 and 2018 Farm Bills:

A. **Controlled Substance Act**: Researchers may obtain a controlled substances registration number from the U.S. Drug Enforcement Agency (DEA). In such cases, the researcher would:

1. Register with the DEA and obtain a Schedule I registration number for the possession, use, or distribution of industrial hemp in accordance with the DEA requirements for marijuana. Upon receipt of registration number, the researcher must register with the New Mexico Board of Pharmacy.
2. Obtain research-grade hemp from a DEA-approved distributor.

B. **2014 and 2018 U.S. Farm Bills**: Researchers may also conduct hemp research under the federal Farm Bills of 2014 and 2018. The Farm Bill of 2014 allows institutions of higher education in a state in which such activities are legalized "...to grow or cultivate industrial hemp for purposes of research conducted under an agricultural pilot program or other agricultural or academic research." For an NMSU researcher to grow, cultivate, or conduct research on industrial hemp under the Farm Bill, the research must be for the purpose of agricultural or academic research, and activities must take place within the state of New Mexico.
    1. Hemp Cultivation Research Requirements:
        a. Principal investigators (PI) are responsible for obtaining a license from NMDA prior to possession of viable seed, plants, cuttings, etc.
        b. Prior to purchase or possession of material to be planted, obtain a certificate of analysis, (based solely on bud and flower, not biomass) demonstrating the source plants for seed, plants, and cuttings meet the definition of hemp measured post-decarboxylated for gas chromatography (GC), or delta 9THC + (.877 * tetrahydrocannabinolic acid (THCA)) for liquid chromatography (LC)).
        c. No NMSU employee may be required to participate in hemp research. Before working with hemp, an employee will be asked to acknowledge in writing the potential risks associated with the political and legal landscapes relating to hemp, as well as the complexities involved with its cultivation. For employees under the age of 18, permission from their legal guardian will be required.
        d. Cultivation of hemp may only take place in counties, noxious weed districts, cities or other political subdivision that allow for its cultivation.
        e. PIs are responsible for transportation of samples to laboratories. NMSU must not transport hemp outside of the state of New Mexico. NMSU employees must have a copy of a valid cultivation license issued by NMDA in their possession at all times when transporting raw hemp (seeds, plants,

flower/bud etc.). NMSU employees are not permitted to transport hemp belonging to any third party. Staff participating in hemp related research must be informed that the handling of hemp plants may result in travel complications where drug dogs may be working.

f. Upon initiation of buds and flowers, PIs must test each cultivar at least once every 10 days to determine compliance with THC levels. Non-compliant plants must be destroyed immediately.
g. Non-compliant cultivars must be destroyed using a method developed in conjunction with Environmental Health Safety and Risk Management and NMSU police. *Cannabis sativa* with a THC concentration of greater than 0.3% (marijuana) is a controlled substance.
h. PIs must keep copies of all cultivar tests and make them available to NMDA upon request.
i. PIs must keep a record of destruction of non-compliant plants. The record must include the name of the plant variety, the number of plants destroyed, the date of destruction and the method of destruction.
j. If cultivation is going to take place on land owned or controlled by NMSU, the PI must obtain a letter from the Chancellor authorizing the cultivation of hemp on NMSU property.

2. Acquisition of Hemp from Third Parties: The following are requirements for NMSU researchers to obtain hemp, that will not be cultivated, from a third party:
   a. All hemp specimens must be certified independently by an NMDA approved lab, and be cultivated in New Mexico consistent with New Mexico law or from a federal DEA-approved distributor.
   b. All specimens must be accompanied by a Certificate of Analysis, (based solely on bud and flower, not biomass) demonstrating the source plants for seed, plants, and cuttings meet the definition of hemp measured post-decarboxylated for GC, or delta 9THC + (.877 * THCA) for LC).

## PART 4: EXTENSION AND OUTREACH ACTIVITIES

A. NMSU's Cooperative Extension Service (CES) may provide information to farmers cultivating hemp who are registered with the NMDA. To ensure compliance with these guidelines, Extension employees must obtain a copy

of the hemp grower's NMDA-issued license before any services are provided. CES must obtain a release from the farmer cultivating hemp releasing NMSU from liability related to NMSU's advice and any potential impact on the THC concentration of the crop.

B. CES must not provide assistance for marijuana growers. NMSU employees may answer general crop questions such as what types of pesticides are safe to use on plants grown for human consumption, what types of insecticides are effective on a variety of crops for controlling a specific pest, or what type of protective personal gear are recommended when handling pesticides.
C. CES is prohibited from transporting hemp for any third party.

## PART 5: NMSU PLANT DIAGNOSTIC CLINIC

The NMSU Plant Diagnostic Clinic may accept hemp samples for identification of insect and disease problems provided the sample is accompanied by an NMDA issued hemp grower's license. Following conclusion of diagnostic tests, all hemp samples will be disposed of as any other plant samples.

## PART 6: HEMP RESEARCH INVOLVING HUMAN SUBJECTS OR ANIMALS

Principal Investigators (PI) conducting hemp research involving human subjects or animals are subject to the following additional requirements:

A. **Coordination with RAS**: PI's must coordinate with Research Administration Services regarding protocols involving humans or animals. The Institutional Review Board (IRB) assists researchers and reviews protocols for research with human subjects. The Institutional Animal Care and Use Committee (IACUC) provides guidance and reviews protocols for activities involving live vertebrate animals.
B. **Coordination with FDA**:
    1. For research with humans or animals relating to clinical drugs, cosmetics, or food additives to be marketed with a claim of therapeutic benefit, the PI must apply for an investigational new drug (IND) application by contacting the U.S. Food and Drug Administration (FDA). Additional information can be found on the **FDA webpages**.
    2. The FDA strongly recommends preliminary discussions with PIs at the protocol preparation phase regarding regulatory requirements to

avoid delays and non-compliance from incomplete or incorrect procedures.

C. **IACUC Approval**: For research involving animals, the PI must obtain Institutional Animal Care and Use Committee (IACUC) approval.

## PART 7: FUNDING FOR HEMP RESEARCH

A. **Funding Source**:
   1. In addition to the standard issues that may arise for any research funding, the source of funding (federal or state agencies, non-profit organizations, industry and private individuals) is important when conducting research on hemp. Additional scrutiny is required to assure that NMSU is not receiving any funding derived from illegal activities. Due to the nexus between hemp and marijuana, it is critical that NMSU not accept funds derived from the sale of marijuana.
   2. The source of all funds for hemp research must be investigated and approved by NMSU's Research Administration Services before applying for, or accepting hemp related funding, including funding provided as gifts or donations.

B. **Form of Payment**: All hemp research funds must come in the form of a check (no cash or money orders may be accepted).

## Details

**Scope:** NMSU System

**Source:** ARP Administrative Rules and Procedures Chapter 11 | Research and Intellectual Property

**Rule Administrator:** VP Research

**Last Updated:** 08/13/2019

## Related

**Cross-Reference:**
NMDA Hemp Cultivation Rules

**Revision History:**
08/13/2019 Amendment approved by Chancellor
07/29/2019 Provisionally adopted by Chancellor

© 2017 New Mexico State University - Board of Regents

# Chapter 12 | Physical Asset Management

## Subsections of Chapter 12

- 12.01 – Role and Authority of Facilities and Services
- 12.02 – Campus Utility Systems Oversight
- 12.05 – Campus Planning (Master Plan)
- 12.06 – Uniform Navigation Signage
- 12.10 – Energy Conservation
- 12.20 – Landscaping
- 12.30 – Capital Projects
- 12.31 – Plaque Information
- 12.32 – Performance Requirements for Projects Less than $20,000
- 12.50 – Art, Archives and Other Collections
- 12.65 – Fleet Asset Management
- 12.66 – Vehicle Assignments
- 12.67 – Transportation Services-Rentals
- 12.70 – Use of NMSU Facility Space
- 12.71 – Academic Facility Space Utilization and Scheduling
- 12.75 – Facility Space Use Management and Procedures
- 12.80 – Facility Maintenance Costs -Services Billable to Departments
- 12.90 – NMSU Real Estate

Go to RPM

ARP Crosswalk

Search for:

Search ...

Search

## ARP Contents

Chapters 1 – 5

Chapters 6 – 10

Chapters 11 – 15

Chapter 16 – 18

Appendices

Filter by Rule Administrator

Select

Submit

New Mexico State University
All About Discovery!

# 12.01 – Role and Authority of Facilities and Services

arp.nmsu.edu/12-01

Facilities and Services is funded by the state and by NMSU for the operation and maintenance of Instruction and General Space ("I & G"). It exists to provide courteous, responsive, cost-effective campus service by providing a broad range of campus support services. Its core mission is the management, operation, repair, renovation, and construction of the fixed physical assets of the university. All construction activity on university-owned facilities is mandated by state law to be done in accordance with applicable building codes. Should Facilities and Services become aware of any activity or work which does not meet building codes, that activity or work will be removed and the responsible department will bear the cost of all required remedial actions. In order to coordinate these construction activities and to protect the interests of the university, all contractors performing construction (as defined by the Construction Industries Division) on facilities owned by the University shall obtain the express permission from Facilities and Services. Only those entities licensed and acceptable to the Construction Industries Division and to the NMSU Facilities and Services shall be allowed to perform construction-related activities. Some construction projects may also require approval of the Higher Education Department and the State Board of Finance.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 12 | Physical Asset Management

**Rule Administrator:** AVP Facilities and Services

**Last Updated:** 08/22/2011

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 9.04
08/22/11 Amendment approved by Board of Regents

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 12.02 – Campus Utility Systems Oversight

arp.nmsu.edu/12-02

Facilities and Services oversees the acquisition, production, distribution, and management of most campus utility systems. These include domestic water, sanitary sewer, electric power, chilled water, steam, geothermal water, natural gas, and emergency power. The utility costs for Instructional and General purpose space are funded by the State of New Mexico and by NMSU via I & G appropriations. All other facilities and utility consumers are expected to reimburse the university for the cost of providing the utilities used.

## A. Utility Connections

Utility systems are integral to the well being of the campus. No modification or connection to a utility distribution system is authorized unless approved by the executive director for operations in Facilities and Services and either accomplished by or directly supervised by Facilities and Services.

## B. Utility Locates

1. In accordance with the New Mexico legislation (SFL/SB 415), anyone excavating or preparing plans for excavation on NMSU property shall request a utility locate a minimum of 2 working days prior to commencing excavation, in order to ensure all locators are informed of the locate request with sufficient time allowed to make their locates. Therefore, the time limit does not commence until both parties listed above are notified. Anyone excavating or preparing plans for excavation are required to provide information regarding the commencement, extent, and duration of the excavation work.
2. The utility locate performed and communicated shall be considered valid for 5 days. If excavation has not commenced within that time, a request for a relocate shall be made in accordance with the above.
3. A minimum of 18 inches must be maintained between any marked utilities and the cutting edge or point of any mechanical excavating equipment.
4. Existing utilities must be protected during the excavation. The owners of any utilities damaged or dislocated during the excavation work must be notified prior to backfilling.

The owners must also be notified of any tracing tape or tracing wire damaged or dislocated during the excavation work, prior to backfilling.

## C. Utility Outages

Facilities and Services will normally provide 2 weeks' notice for all planned utility outages that impact campus facilities. Any activity that will require an outage must be requested in accordance with Facilities and Services procedures. On some occasions, emergency situations may require an unplanned utility outage and Facilities and Services will repair the situation and restore utility service as soon as is possible.

## D. Utility Tunnels

The university owns an extensive network of utility tunnels that exist for the sole purpose of providing a conveying utility systems to and from campus facilities. Access to those tunnels must be specifically approved by the executive director of operations (or designee) at (575) 646-2101. The tunnels are potentially dangerous spaces and safety regulations shall be followed by any person that enters these areas. Any installation of additional equipment or devices in the university utility tunnel system shall receive prior written approval from the executive director of operations in Facilities and Services.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 12 | Physical Asset Management

**Rule Administrator:** AVP Facilities and Services

**Last Updated:** 08/22/2011

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 9.55
08/22/11 Amendment approved by Board of Regents

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 12.05 – Campus Planning (Master Plan)

arp.nmsu.edu/12-05

Facilities and Services is charged with the responsibility for the development and maintenance of facility master plans for the main campus. In addition, Facilities and Services coordinates and assists the community campuses in the development of their master plans. All Master Plans must be submitted to and adopted by the Board of Regents.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 12 | Physical Asset Management

**Rule Administrator:** AVP Facilities and Services

**Last Updated:** 08/22/2011

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 9.05
08/22/11 Amendment approved by Board of Regents

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 12.06 – Uniform Navigation Signage

arp.nmsu.edu/12-06

## A. Purpose

To establish parameters for a unified graphic design to be used on all signage at NMSU's Las Cruces campus, in order to provide a sense of welcome, security and comfort to students and visitors as they navigate the campus.

## B. Rationale and Objectives

1. The goals of the NMSU Wayfinding and Signage Program are to implement a cohesive graphic identity throughout the entire Las Cruces campus by Facilities and Services. The look and style of the signs applied uniformly and accurately will create a positive first impression by displaying graphics that will assist students and first-time visitors with navigating the campus and by providing them with a sense of welcome, security and comfort.
2. This document establishes parameters and provides guidelines that will maintain a unified look for all signage on campus. Collaboration and participation by interested parties (administrative staff, architects, sign designers, interior designers, campus project managers, etc) will ensure that the system remains uniform and cohesive. The design of the signage will incorporate the guidelines from the branding initiative.
3. The Wayfinding and Signage Program is all encompassing. It includes directional signs from roadways, to parking, to pedestrian activities, to buildings and ultimately to final destinations. The guidelines serve the entire Las Cruces campus and will be applied to new construction as well as modifications to existing buildings.
4. Roadway signage will emphasize the main campus entrances and clearly identify visitor information destinations. Parking lots will be clearly marked, and campus maps and directories will be strategically placed at pedestrian entry paths adjacent to parking lots.

## C. Required Architectural Signage

Campus buildings will have architectural signage as follows:

1. **Building Identification/dimensional letters** – with the official name of the building as approved by the Board of Regents placed near the main entrance(s). Address numerals may also be utilized (numerals only). All letters on buildings will be a standard size as noted in the signage guidelines.
2. **Building Identification/freestanding sign** – with name of building, one name per building, as defined by the Naming Committee, placed near the main entrance or near the primary walkway to the main entrance in instances when the front door is obscured or when there is no appropriate location on the architecture for dimensional letters. One line of descriptive text may also be applied to the sign when needed or feasible, as defined by the Naming Committee. Address, with numerals and street name only, may also be applied to the sign panel. Signs may be single sided when parallel to the building or double faced when perpendicular to approaching traffic.
3. **Building Directories/wall mounted** – Tenants and sub-tenants of buildings will be listed on building directories as shown in the signage guidelines. Facilities and Services will provide information and assist building managers with implementing the directory signage through the NMSU Sign Shop. Directories are recommended in lobbies of buildings at primary entrances on the first floor or ground level. Secondary directories, such as floor directories and/or elevator lobby directories, can provide further opportunity to guide visitors and provide tenant information.
4. All appeals pursuant to this Rule should be directed through the university architect to the Campus Planning Committee.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 12 | Physical Asset Management

**Rule Administrator:** AVP Facilities and Services

**Last Updated:** 08/22/2011

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 9.60
08/22/11 Amendment approved by Board of Regents
07/20/10 Policy adoption ratified by Board of Regents
11/14/06 Policy approved by Administrative Council

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 12.10 – Energy Conservation

arp.nmsu.edu/12-10

Every building, both new construction and remodeled facilities will be designed to be energy efficient, using a minimum of electric power, steam, chilled water, and natural gas, and still provide the necessary interior environment to function successfully.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 12 | Physical Asset Management

**Rule Administrator:** AVP Facilities and Services

**Last Updated:** Not Available

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 9.30 A.

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 12.20 – Landscaping

arp.nmsu.edu/12-20

In the planning of new campus construction, consideration will be given to preserving trees and shrubs growing on the construction site.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 12 | Physical Asset Management

**Rule Administrator:** AVP Facilities and Services

**Last Updated:** Not Available

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 9.30 B.

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 12.30 – Capital Projects

arp.nmsu.edu/12-30

## A. Authority of Facilities and Services

Facilities and Services is charged by the Board of Regents with the responsibility to plan, manage, and oversee all capital outlay construction projects for all locations within the university system. In addition, Facilities and Services will be responsible for any work which is competitively bid for a construction activity (as defined by the Construction Industries Division of the New Mexico Regulation and Licensing Department).

## B. Authority Reserved to the Board of Regents

1. All capital projects that fall under the following categories must be submitted to the Board of Regents for approval:
    a. Purchases of real property unless otherwise delegated pursuant to **ARP 12.90 NMSU Real Estate**;
    b. Any project which results in the addition of square footage, whether from the construction of a new facility or of building addition or of purchase or portable buildings;
    c. Any proposal to issue bonds;
    d. Any alteration or site improvement over $300,000 for an institution with an FTE enrollment of over 1,500; and
    e. Any demolition of an existing building.
2. Any change in the size of the project of 10 percent or over 1,000 net assignable square feet, whichever is larger; a 10 percent change in the type or purpose of planned space; or a change in the total project cost of 10 percent or $100,000, whichever is larger, shall be resubmitted to the Board of Regents for approval prior to authorizing the additional expenditure.

## C. Capital Projects Construction Contract Award

The Board of Regents authorizes the senior vice president for administration and finance (or designee) to act on its behalf to award construction contracts to the lowest responsible bidder consistent with applicable law.

## D. Selection of Architects, engineers, landscape architects and surveyors

In order to assist the senior vice president for administration and finance in the selection of an architect and/or engineer for a capital outlay project, a selection committee established by Facilities and Services will solicit inquiries and screen potential firms through a request for proposal (RFP). This process shall be in accordance with New Mexico procurement code (13-1-28 through 13-1-199 NMSA 1978). The members of the selection committee will send individual evaluation sheets to the associate vice president for facilities and services for the three most qualified firms. The associate vice president for facilities and services will review the assessments of the selection committee members and develop a final tabulation sheet, which will be available for public review. The associate vice president for facilities and services will then select a firm to design the capital outlay project with approval from the senior vice president for administration and finance.

The Board of Regents authorizes the university administration to select professional design firms to design small public works projects on campus. A small public works project shall be defined as one with fees between $50,000 and $100,000. The selection of these firms shall be through the same procedure as above and the number of firms selected shall be in accordance with NMSA 13-1-153 and NMSA 13-1-154. Utilization of services under these awards shall be administered through a university professional service contract for each project and approved by the director of procurement services and the assistance vice president for facilities and services or their designee(s). These firms will be selected through the same procedure as detailed above and in accordance with New Mexico Procurement Code (13-1-28 through 13-1-199 NMSA 1978).

Architects and engineers may also be employed for small maintenance remodel projects via professional service contracts as specified in the New Mexico Procurement Code (13-1-28 through 13-1-199 NMSA 1978) when approved by the director of procurement services and the associate vice president for facilities and services.

The Board of Regents authorizes the university administration to negotiate architect's and/or engineer's fees in all cases. The senior vice president for administration and finance, in coordination with the associate vice president for facilities and services, reserves the right to terminate any capital project contract for nonperformance of duties.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 12 | Physical Asset Management

**Rule Administrator:** AVP Facilities and Services

**Last Updated:** 11/14/2017

## Related

**Cross-Reference:**
**Revision History:**

11/14/17 Amendment approved by Chancellor
2017 Recompilation, formerly Rule 9.10
08/22/11 Amendment approved by Board of Regents

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 12.31 – Plaque Information

arp.nmsu.edu/12-31

The names of regents and governors for inclusion on plaques are those serving at the time of the construction contract signing. In order to affix any plaque, particularly one of historical significance, to a university building, the approval of the central administration is required.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 12 | Physical Asset Management

**Rule Administrator:** AVP Facilities and Services

**Last Updated:** Not Available

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 9.30 D.

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 12.32 – Performance Requirements for Projects Less than $20,000

arp.nmsu.edu/12-32

For all building projects where the total expenditure will be less than $20,000, no surety bonds shall be required of the contractor. In lieu thereof, should the contractor not desire to provide a performance bond, the contractor shall provide the Procurement Services Office with the following:

1. A guaranty of the performance of work executed by all principals, partners, owners, and shareholders of the contractor. The guaranty shall be on a form approved from time to time by the Procurement Services Office
2. At least one of the following, in an amount not less than half of the total contract price:
    1. A certified check from a bank or savings and loan doing business in New Mexico payable to the Board of Regents. This check shall either be held by or cashed by the university without interest due the contractor.
    2. An irrevocable letter of credit from a bank or savings and loan doing business in New Mexico in favor of the Board of Regents.
    3. In all such contracts where bonds are provided as set forth in this rule, at least 50 percent of the monies due the contractor shall not be paid by the university until after completion satisfactory to the university.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 12 | Physical Asset Management

**Rule Administrator:** AVP Facilities and Services

**Last Updated:** Not Available

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 9.30 C.

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 12.50 – Art, Archives and Other Collections

arp.nmsu.edu/12-50

## A. Purpose

To ensure the proper acquisition, inventory, professional care and use of the university's art, archives and other cultural collections.

## B. Scope of Application

This rule applies throughout the NMSU System; it addresses all art owned by NMSU, including art acquired to become part of the university's permanent art collection (i.e. those works of art in the custody or control of the Art Gallery), art acquired via the Art in Public Places Act, art donated to or acquired by any NMSU entity.

## C. Rule Administrator

These administrative rules and procedures are administered by those officials with continuous position appointments to the Art Gallery Acquisitions Committee and the University Cultural Collections Committee, the University Museum, University Archives, as well as by appropriate state personnel and committees formed pursuant to the New Mexico Art in Public Places Act.

## D. General Guidelines

### 1. Art Belonging to NMSU

Works of art for museums or for display in public buildings or places are distinct from other types of personal property owned by the NMSU Board of Regents. The acquisition of art is exempt from the New Mexico Procurement Code, but is subject to other state requirements and other university requirements relating to gifts in kind. For the purpose of this rule, "art acquisition" includes the receipt of artwork through any means, including purchases using

publicly appropriated or privately donated funds, commission, gift, trade, transfer, exchange, or bequest. The Art Gallery coordinates the management of all university owned art. It is the Art Gallery's charge to exhibit, maintain, and preserve the university's art consistent with current professional standards. The Director of the Art Gallery serves as the curator of the NMSU System art collections.

## 2. Mission of the Art Gallery

Through the exhibition, research, and interpretation of original works of art, the Art Gallery supports the University's pedagogical goals and endeavors to educate its audience and raise its awareness to the diverse and valuable experience available in the visual arts.

## 3. Art Committees

The following committees are hereby recognized:

a. **The Art Gallery Acquisitions Committee**, a standing committee charged with identifying and recommending acquisition of artwork for the NMSU permanent collection, as well as making recommendations for the conservation and presentation of art in the cultural collections owned by the university. The Art Gallery Acquisitions Committee is the committee granted the authority to approve expenditures from the NMSU Permanent Art Collections Account, in collaboration with other members of the university community and in accordance with the provisions outlined herein. *See* subsection E. below.
b. **The University Cultural Collections Committee**, a standing committee charged with approving the acquisition of art and other cultural collections available or offered to NMSU, and with decisions relating to the conservation and presentation of art and other objects in the cultural collections owned by the university.

## 4. NMSU Archives and Special Collections

NMSU Archives (Hobson-Huntsinger University Archives) selects, preserves, houses, and makes accessible all records of enduring value created by administrators, faculty, students and alumni of New Mexico State University. Through its programs the University Archives seeks to illuminate the history, evolution, and societal role of the institution.

a. **Political Papers Archives**: Political paper archives consist of the congressional, selected gubernatorial and personal papers of senators and members of both the state and U.S. House of Representatives and U.S. Senate from New Mexico serving from 1916-present, highlighting their political careers at the local, state, national, and international levels.
b. **Reprographics/Digital Duplication**: This division responds to internal and external reproduction requests, as well as coordinates regarding conservation and cataloguing

photographic materials and audio and video recordings that are added to the collections.

c. **Rio Grande Historical Collections (RGHC)**: The RGHC division acquires, preserves, and makes available for research records of organizations, personal papers, and other unpublished materials which document the cultural heritage and history of New Mexico and the Spanish Borderlands.
d. **Special Collections**: The Special Collections division houses published research materials including books, periodicals, maps and newspapers. The most heavily used of these materials relate to the history, culture, peoples, and resources of New Mexico; the broader Southwest and the Borderlands; and materials supporting specialized university programs.

# E. Art Acquisition

This subsection does not address the acquisition of art for capital improvement projects, which is governed by state law. *See* subsection I. below.

## 1. Funding

The university shall set aside a sum each year in the NMSU Permanent Art Collections Account, an amount equivalent to $1 for each student enrolled full time each academic year, for the restricted use of funding the acquisition, conservation and presentation of works of art. The Art Gallery Acquisitions Committee is the entity authorized to approve expenditures from this account.

## 2. Criteria

All works of art proposed for acquisition, conservation or presentation for the benefit of the university may be evaluated by the Director of the Art Gallery, the Department Head for the Department of Art, or any other interested individual member of either the Art Gallery Acquisitions Committee or the University Cultural Collections Committee. All recommendations shall be considered by the University Cultural Collections Committee, which shall make the final decision on behalf of the university, based on the following criteria:

a. **Quality, Condition and Aesthetic and Academic Value**: The quality and condition of the object, aesthetic value and appropriateness to the academic environment and the department to which it is donated. The object under consideration should be relevant to an existing collection or should be capable of forming the nucleus for a new collection. The value of the object for scholarly use within an established collection on campus should be considered.

b. **Care and Maintenance Requirements**: The university is committed to properly care for and maintain the objects in its cultural collections in accordance with acceptable professional standards. The director of the Art Gallery, a representative of the Art Gallery Acquisitions Committee (other than the director of the Art Gallery), and the chair of the University Cultural Collections Committee are also charged with bringing issues such meeting professional standards for adequate storage, protection, and preservation to the attention of the two committees for resolution.
c. **Security and Logistical Concerns**: The security and appropriateness of the location for installation of the object. Considerations for protection of the object through security systems and insurance restrictions should also be considered.
d. **Purpose for Acquisition**: The intention is that an object shall remain in the collection so long as it retains its authenticity, pertinence to the collection, and physical integrity. Short range acquisition for the purpose of later sale, as well as speculative acquisition for short-range sales should be discouraged and then only entered into with the express approval of the Art Gallery Acquisitions Committee and the University Cultural Collections Committee.
e. **Legality**: NMSU will operate with due diligence in researching the background of any art objects to be acquired in order to assure compliance with applicable state and federal laws.

## 3. Decision making Authority

The responsibility to search for accessions is shared between the director of the Art Gallery, the Art Gallery Acquisitions Committee and the University Cultural Collections Committee. University officials, faculty, staff and other support groups of the Art Gallery shall not obligate the university to any acquisition; prospective donors or sellers should be advised that all objects proposed for acquisition by the university are subject to review and recommendation from the director of the Art Gallery and the Art Gallery Acquisitions Committee, and approval from the University Cultural Collections Committee, subject to these administrative rules and procedures and other gift acquisition protocols which may apply.

## 4. Valuation of Gift Art

NMSU officials, faculty, staff or other agents shall not participate in the appraisal of gifts of art, archival material or other special collectible offered to the university for the purpose of establishing the tax deductible value.

## 5. Acquisition by Gift or Bequest

a. **Donor Restrictions**: The university prefers to receive gifts free of restrictions that might affect the university's ability to utilize the gift in the most efficacious manner on

behalf of the students and the NMSU community. There can be no commitment to permanent display, nor can the university commit to retain ownership in perpetuity. Every effort should be made to limit restrictions to a reasonable period, after which they will expire. Any restriction shall be documented and maintained with the records pertaining to the gift and kept on file at the Art Gallery.

b. **Gift Agreement**: The gift of objects or works of art needs to be formalized in a deed of gift agreement which includes statement of transfer of legal title and where applicable, copyright and literary rights and signature of the donor. The deed of gift or a copy of the deed of gift should be kept on file at the Art Gallery. Documentation should include:
    1. Name and address of donor and intermediary, if any;
    2. Description of the object in sufficient detail to enable easy identification and a photograph;
    3. Date of acquisition by the donor and method of acquisition;
    4. The original cost or appraisal of the object at the time of original acquisition;
    5. Any records, receipts or other documents that provide proof of ownership;
    6. Date of donation to the university and date of acknowledgment;
    7. A history of the object and any information that may have bearing in its authenticity or enhance its educational value;
    8. A current appraisal by an independent qualified appraiser;
    9. Factors used to arrive at the current value;
    10. De-accession of the object, if not retained by the university; and
    11. Any restrictions or conditions placed on the gift by the donor and the expiration date of the conditions.

## 6. Acquisition by Purchase

The purchase of a work of art for the university, either through commission or purchase, will be formalized by a written contract for commission or bill of sale. Proposals will be reviewed by the director of the Art Gallery, the Art Gallery Acquisitions Committee and the University Cultural Collections Committee. Contracts will follow the template created by these committees, if any, in consultation with the university's general counsel.

## 7. Acquisition by Incoming Short Term Loan

Under ordinary circumstances, the university does not accept deposits of objects or works of art unless there is reason to believe that the deposit will be changed to a permanent gift to the university or that it is unlikely that the object of value will be preserved in any other way. The university will provide professional care for art objects received on loan, but will not assume responsibility for any loss or injury to the deposit which may occur. Should an object be received for long-term loan, the specific period of the loan shall be defined in a

written loan agreement at the outset. Loan agreements shall follow the template created by the Art Gallery Acquisitions Committee and the University Cultural Collections Committee, if any, in consultation with the university's general counsel.

### 8. The following documentation will be maintained for all incoming loans

copies of all loan forms; incoming and outgoing condition reports, to include any special requirement for the object; all records of transport; any records that pertain to the work with regard to value and insurance.

## F. Art Inventory, Custody and Conservation

1. **Designation of Art Custodian and Duties**: Any NMSU entity physically in possession of a work of art shall assign a specific person to serve as custodian of the art and liaison to the director of the Art Gallery. At least once annually, as directed by the director of the Art Gallery, the designated unit art custodian shall annually verify the object is secured in accordance with standards for insurance against risk of loss, and document its physical condition and location. The art custodian shall send the results of this art inventory to the director of the Art Gallery.
2. **Art Conservation**: All proposals for necessary restoration and repair to works of art shall be presented to the Art Gallery Acquisitions Committee and the University Cultural Collections Committee for consideration. Professional conservators should be consulted when feasible. If restoration work is needed, requests for funding should be submitted through normal administrative channels. University administration is responsible for the cost of conservation of university art. Should conservation be unfeasible and the poor condition of a work of art impugn the integrity of the piece, the work should be removed from view, or in the case of murals, be appropriately covered, upon consultation with the Art Gallery Acquisitions Committee and the University Cultural Collections Committee.

## G. Outgoing (Short Term) Loans from the University's Permanent Art Collection

### 1. Short Term Loans to Other Public Institutions

In keeping with its traditional support of scholarly and educational exhibitions, the Art Gallery may loan NMSU works of art to qualified educational and exhibiting institutions for up to one year. Prior to lending, the following conditions must be met:

The object to be loaned must be able to survive, intact, the rigors that will be imposed by

transportation and handling.

a. The borrowing institution shall have proper environmental controls, qualified handlers, and adequate security for the protection of the object. Facilities reports will be required.
b. The director of the art gallery shall ascertain that there will be no immediate need for the work within the NMSU community.
c. The borrowing institution will provide wall to wall insurance; a certificate of insurance will be required.

### 2. Long-Term Loans from Collection to Other Public Institutions

Loans to institutions for extended tours, exceeding 1 year, may be made at the discretion of the art gallery director, on the condition that all institutions involved in the tour meet the above qualifications for loan. Long-term loans from the permanent collection may be made from time to time to other institutions at the discretion of the art gallery director. Objects selected for such loan should not be of primary importance to the NMSU art collection, nor be of substantial value.

### 3. Record of Outgoing Loans

For all short and long term outgoing loans, the following records will be maintained: copies of all loan forms; incoming and outgoing condition reports, to include any special requirement for the object; all records of transport; any records that pertain to the work with regard to value and insurance.

## H. De-accession

A de-accession is the removal of an object from the university's art collection with legal transfer of title or other appropriate action. The following de-accession process applies in the event any university department wishes to dispose of a university owned work of art.

### 1. Requests for De-accession

The director of the Art Gallery shall present a written request for de-accession to the Art Gallery Acquisitions Committee and the University Cultural Collections Committee. The request should include a justification and a proposed destination for the work of art. Written outside appraisals will be sought for any object of significant value that is being considered for de-accession. The Art Gallery Acquisitions Committee and the University Cultural Collections Committee shall make its recommendation(s) to the NMSU Board of Regents. An object should not be de-accessioned on the grounds of taste, current or otherwise. The

Art Gallery Acquisitions Committee and the University Cultural Collections Committee should discourage the sale of objects without clear justification and deter the sale of objects for revenue.

a. **Reservation for Distinct Special Collection**: If the director of the university museum, or the library's archives and special collections department head desire the object for a collection, the Art Gallery Acquisitions Committee and the University Cultural Collections Committee should release the object for approval by the acquisitions committee of the established collection. If the object is not desired for an established collection, the de-accession process shall continue.
b. **Current Restrictions on Gift of Art**: Objects with mandatory donor restrictions may not be de-accessioned prior to expiration of any time limitation or until permitted by a court of competent jurisdiction. If it is practical and reasonable to do so considering the value, the Art Gallery should notify the donor if it intends to dispose of such objects within 10 years or the donor's lifetime, whichever is shorter. If there is any question as to the intent or force of the restrictions, the Art Gallery will seek advice from the university's general counsel.
c. **De-accession of Objects**: The manner of de-accession chosen will be in the best interest of the Art Gallery and its collection. Any profit from the de-accession will be applied to acquisitions and/or art conservation. Consideration may be given to placing the object through gift, exchange, or sale with another tax-exempt public institution. If the object is to be sold to a non-public entity, a public auction or other publicly noticed sale should be conducted. Staff and officials of the university are ineligible to purchase or otherwise acquire NMSU works of art. If any profit is accrued through the sale of an object, it shall be deposited into the NMSU Permanent Art Collections Account.
d. **Respect to Artist**: The de-accession of works will be accomplished in such a manner that it will not impugn the reputation of the artist or the artist's body of work. Should the de-accession of works by living artists be required, the feelings of the artist should be respected and whenever possible, the artist should be consulted regarding the de-accession of the work of art.
e. **Documentation of De-accessioned Objects**: Full record of all exchanges and sales will be maintained. Records of the Art Gallery shall document the de-accession process and the final destination of the object.

## 2. Museum Items

In the absence of a specific de-accession procedure for items in the University Museum, the above art de-accession procedure shall apply. The Dean of the College of Arts and Sciences is authorized to promulgate rules and procedures for the de-accession of museum items.

# I. Art Acquisition for Capital Projects

1. New Mexico law, at NMSA 1978, § 13-4A-1 *et seq*, known as the Art in Public Places Act, requires one percent of the amount appropriated for new construction or major renovation or $200,000, whichever is less, to be allocated for the acquisition and installation of works of art. New Mexico Arts, a division of the New Mexico Office of Cultural Affairs administers such acquisitions. Expenditures for works of art are required by law to be contracted for separately from all other items in the new construction of the public building.
2. The state's guidelines include the involvement of a Local Selection Committee, consisting of members reflecting the cultural diversity of the community and with an interest in the project. The membership typically includes a representative from the users of the building, the owner representative or designee, an architect, an arts professional or community art representative, an artist not competing for the project, and up to two community or student representatives or a member of the Board of Regents.
3. The university architect, the director of the Art Gallery, and the head of the Department of Art shall serve on all Local Selection Committees as position appointments, as long as permitted by applicable state regulations. The Local Selection Committee is responsible for selection of art for the identified public building, using the public selection process and adhering to the procedures developed by the New Mexico Arts division. Those procedures may be viewed at NMAC 4.12.11.2 through 11.16.

# J. Additions to the University's Archives:

This subsection establishes a set of standard guidelines by which records proposed for addition to the NMSU archives collection will be appraised during the acquisition process.

1. **Ownership and Disposal Authority**: The records of the official activities of the units and staff of NMSU are the property of the institution. Their de-accession is controlled by the NMSU Board of Regents or subject to state and federal law. Proposals to dispose of records should be reviewed by and receive the concurrence of the Department Head for Archives and Special Collections.
2. **Appraisal Guidelines**: *See* NMSU Archives Appraisal Guidelines for records. NMSU Library: Policies and Procedures – Policy #012
3. **Authority to Accept**: The NMSU Board of Regents has delegated authority to the Archives and Special Collections Department, with the approval of the dean of the University Library, to accept on behalf of the university, collections of documents of

100 cubic feet or less. Other larger collections may only be accepted by the Chancellor or the executive vice president and provost in accordance with other applicable NMSU gift acceptance policies. Such larger collections shall be reported to the Board of Regents.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 12 | Physical Asset Management

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 03/14/2011

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 2.03
03/14/11 Amendments approved by Board of Regents

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 12.65 – Fleet Asset Management

arp.nmsu.edu/12-65

## A. Definitions

1. "**Vehicle**" refers to any vehicle or device that is propelled by an internal combustion engine, electric or other power that is used or may be used on the roadway for the purpose of transporting persons or property, including connected trailers.
2. "**NMSU Entity**" refers to a department or other administrative unit within an NMSU college or campus, including but not limited to the library, extension service, and experiment stations. Private not-for-profit corporations affiliated with NMSU for fundraising, research, public service, or student activity purposes, while possibly subject to follow applicable NMSU policy, rules and procedures to maintain their recognized status, are not "NMSU entities".

## B. Related Policies and Procedures

1. Vehicle Assignment **ARP 12.66**
2. New Mexico State University Business Procedures Manual, "Procurement Services Office Chapter 4, Section 45. Vehicles
3. **NMSU Vehicle Use Procedures**

## C. Fleet Management Rules

### 1. Authority and Responsibilities

The director of transportation and parking services is responsible for planning, coordinating, implementing, and enforcing the Fleet Asset Management Program. Responsibilities include, but are not limited to:

a. Serving as the central point of contact for NMSU fleet management, reporting vehicle data, responding to inquiries about vehicles, processing addition/replacement

requests, and ensuring compliance with federal, state and university policies and procedures, as they relate to the vehicles operated by the university;

b. Coordinating fleet management decisions regarding acquisition and replacement, maintenance and repair, utilization, and vehicle disposal;
c. Reviewing reported inappropriate use of university vehicles;
d. Reviewing departmental vehicles surrendered for either, interdepartmental transfer or disposal by the NMSU property office;
e. Maintaining current information relating to manufacturer recall notices, safety issues, industry "best practices" and responding in order to maintain safety.

## 2. Acquisition and Use

The purchase or acquisition of vehicles shall be consistent with the purchasing or other applicable law or regulations of the State of New Mexico. In order to facilitate the university's mission, the following methods are offered to obtain vehicles:

a. **Vehicle Purchases.** All new or used vehicle acquisitions will be made by the Procurement Services Office, after approval by the director of transportation and parking services.
b. An NMSU entity interested in the purchase or acquisition of a new vehicle will prepare and submit a completed **Vehicle Acquisition Request** form to the director of transportation and parking services that includes the following:
    i. Signature approval by the vice president or dean responsible for the unit or department where the vehicle will be assigned;
    ii. Explanation of the purpose(s) and proposed use of the vehicle;
    iii. Type of vehicle required;
    iv. Identification of the vehicle to be traded in or replaced, if applicable;
    v. Location where the vehicle will be placed into service.
c. The director of transportation and parking services will review the request and ensure the overall authorized number of university fleet vehicles is not exceeded by the acquisition.
d. **Surplus/Excess Vehicles:** The director of transportation and parking services will review and approve requests to acquire surplus vehicles through the State Surplus Office or directly from other state agencies prior to acquisition.
    i. An NMSU entity interested in acquisition of a surplus/excess vehicle will prepare and submit a completed Vehicle Acquisition Request form to the director of transportation and parking services.
    ii. The director of transportation and parking services will review the request and ensure the overall authorized number of university fleet vehicles is not exceeded by the acquisition.
    iii. Acquisition of vehicles through Federal Excess Property programs must follow the same process as surplus/excess vehicle acquisition. Vehicles acquired

through Federal Excess Property Programs remain the property of the federal government and are on loan to the college or unit authorized to acquire federal excess property. This property is governed by federal regulation and the sole responsibility of the college or unit to which it is assigned.

iv. The director of transportation and parking services is responsible for ensuring the evaluation of all newly acquired vehicles to assess their condition, road worthiness, and safety. The director will forward appropriate recommendations, as may be necessary, for repairs and/or to ensure the vehicle complies with university standards prior to possession by the NMSU entity.

v. All costs for the vehicle acquisitions, to include screening, transportation costs, and associated maintenance costs, will be borne by the department or unit where the vehicle is assigned

e. **Vehicle Rental:** To satisfy the university's short-term vehicle requirements, the Office of Transportation and Parking Services operates a rental fleet of vehicles which originate on the Las Cruces campus.

f. **Interdepartmental Transfers:** All interdepartmental vehicle transfers shall be approved in advance by the director of transportation and parking services. NMSU Entities interested in an intra-university transfer or acquisition shall submit a completed **Vehicle Acquisition Request** form to the director of transportation and parking services.

g. If the acquisition is approved by the director of transportation and parking services, the acquiring department will then complete an Inventory Change Form and forward it to the Office of Administration and Finance. The Office of Administration and Finance will forward the form to the director of transportation and parking services, who will arrange for the inspection of the vehicle, and for any additional action needed.

## 3. Vehicle Replacement Criteria

The director of transportation and parking services will review, modify or establish, as appropriate, vehicle replacement criteria using industry best practices, including life-cycle cost analysis, in order to develop cost effective replacement of vehicles.

## 4. Alternative Fuel Program

The State of New Mexico mandates that seventy-five percent (75%) of all vehicles purchased or leased by state agencies or institutions of higher education be capable of using an alternative fuel or are a hybrid (gas/electric) type of vehicle. See NMSA 1978, § 13-1 B-3(A). It is the responsibility of the director of transportation and parking services to report on compliance with these state requirements, as well as with any applicable federal requirements.

### 5. Maintenance

A preventative maintenance program is paramount to protecting the university's fleet investment and ensuring the university's vehicles are managed in a safe, cost-effective manner. The director of transportation and parking services will establish maintenance schedules defined by the manufacturer or in accordance with industry accepted practices. Each department is responsible for following the prescribed preventative maintenance schedule for each vehicle assigned to that department.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 12 | Physical Asset Management

**Rule Administrator:** Director Auxiliary Operations

**Last Updated:** 08/22/2011

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 9.34
08/22/11 Amendment approved by Board of Regents
07/20/10 Adoption of amendment approved by Board of Regents
06/08/10 Amendment approved by Administrative Council
09/08/06 Policy adoption ratified by Board of Regents
09/13/05 Policy approved by Administrative Council

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 12.66 – Vehicle Assignments

arp.nmsu.edu/12-66

It is the intent of NMSU to own and operate the fewest number of motor vehicles as possible to achieve the mission of the university without creating a hardship for any college, NMSU entity, or process. Accordingly, these Vehicle Assignment Rules focuses on the most effective and efficient utilization of university-owned vehicles.

## A. Definitions and Terms

1. **Daily Vehicle Assignment**: A university vehicle under the exclusive control of an employee for the purpose of performing assigned work duties and responsibilities during the workday but generally not authorized for take-home use.
2. **NMSU Entity Vehicle**: A university vehicle not assigned to an employee or part of the Transportation Services' Vehicle Fleet.
3. **Limited Vehicle Assignment**: A university vehicle under the exclusive control of an employee for the purpose of performing assigned work duties and responsibilities and authorized for take-home use limited to commuting.
4. **Police/fire Mission-Critical Vehicle**: Consists of emergency vehicles which include fully-equipped and clearly marked police and fire vehicles. When used for undercover work, this will include unmarked law enforcement vehicles. These vehicles will remain on campus during non-working hours unless prior authorization has been obtained.
5. **Vehicle Commuting**: The use of a university vehicle for traveling between the employee's home and the designated place(s) of work.

## B. Vehicle Assignment Requirements

1. The NMSU entities and their respective employees are responsible for ensuring the operation and maintenance of university vehicles is in compliance with the University's Fleet Asset Management Program, including the Vehicle Use Procedures.
2. Assignment of a university vehicle must be for the convenience of the university and not for the convenience of an employee. Personal use of a university vehicle,

including vehicle commuting, is not allowed unless otherwise allowed per these Vehicle Assignment Rules.

3. Individual vehicle assignments shall be limited to the following: Daily Vehicle Assignment, Limited Vehicle Assignment or Police/Fire Mission-Critical Vehicle Assignment.
4. **Eligibility for Daily Vehicle Assignment is restricted to employees meeting at least one of the following criteria**:
    a. Drive more than 6,000 business miles per year.
    b. Position duties require daily travel to multiple destinations more than 10 miles from the employee's primary place of business.
    c. Position duties require the routine transport of at least two (2) or more employees.
    d. Position duties require the routine transport of specific equipment, materials, and tools necessary for the completion of assigned tasks.
5. Eligibility for Limited Vehicle Assignment is restricted to employees meeting the requirements of Daily Vehicle Assignment AND whose position duties routinely require travel directly to a remote site from his/her home at least two (2) times per week.
6. Police/Fire Mission-Critical Vehicles will only be operated during working hours by authorized operators. With prior approval, police and fire vehicles may be used for commuting and/or personal purposes when the assigned employee is required to respond to emergencies at the time of the vehicle is in use. Such anticipated commuting and/or personal use must be clearly outlined and approved on the Vehicle Assignment Authorization Form.
7. All University-owned vehicles must be returned to campus or the designated place of work when the assigned employee will be on leave for more than five (5) days. Any requested exception to this requirement must be clearly outlined and fully approved on the Vehicle Assignment Authorization Form.
8. When employees need to travel on university business and an NMSU entity vehicle is not available or appropriate, vehicle rental arrangements can be coordinated through the Office of Transportation and Parking Services or from a commercial rental agency. In addition, the Business Procedures Manual at Section 5.C. 05.55 addresses reimbursement of mileage for use of personal vehicles for conducting university business.
9. NMSU entity vehicles will be kept to a minimum.

## C. Compliance and Approval Responsibility

1. Employee vehicle assignments must be approved by the employee's dean/vice president and the senior vice president for administration and finance. Such approval

shall be initiated by completing and submitting a Vehicle Assignment Authorization form available at: Vehicle Assignment Form.

2. The executive vice president and provost and the senior vice president for administration and finance will establish a maximum number of vehicles authorized for each NMSU entity. Purchase Requisitions which will increase the NMSU entity's assigned vehicles in excess of the authorized number will be denied.
3. Contract employees are exempt from this Rule as contractual arrangements for these employees are handled on an individual basis.
4. When a university-owned vehicle is operated away from campus in a commuting or other personal capacity, the assigned vehicle operator will be required to submit the appropriate paperwork for determination of the taxability of the personal use. Refer to BPM Section 7.05 regarding personal use of university vehicles.
5. The Office of Treasury Services will be responsible for determining the appropriate valuation method to be used for tax reporting purposes. Such determination will be made at the time the vehicle assignment is approved and noted on the Vehicle Assignment Authorization Form.
6. No less than once a year, the Office of Transportation and Parking Services will provide the senior vice president for administration and finance with a vehicle listing including assignment type, annual mileage and eligibility status for continued assignment. Employees no longer eligible for a previously approved vehicle assignment will receive written notification.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 12 | Physical Asset Management

**Rule Administrator:** Director Auxiliary Operations

**Last Updated:** 07/20/2010

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 9.33
07/20/10 Amendment approved by Board of Regents
07/29/09 Policy adoption ratified by Board of Regents
07/14/09 Policy approved by Administrative Council

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 12.67 – Transportation Services-Rentals

arp.nmsu.edu/12-67

## A. Availability of Rental Vehicles

Rental vehicles are available through the Office of Transportation and Parking Services. These vehicles are provided for university-related business, and are to be driven only by university employees, students, agents of the university, or volunteers, in the performance of their duties. All operators shall have in their possession an appropriate, current class license to operate a motor vehicle in the State of New Mexico, and an NMSU Driving Permit as issued by the Office of Environmental Health and Safety.

## B. Driver/Passenger Qualifications

Authorized drivers are those who have met the requirements as set forth in Section III of the University's Vehicle Use Procedures. Passengers are limited to university employees, students participating in authorized trips, and invited guests engaged in university related activities. Students who are not university employees, that drive a university vehicle, must be affiliated with a university chartered organization and involved in a university-related event.

## C. Driver Responsibilities

Responsibility for the safe and appropriate use of state vehicles is delegated by the Office of Transportation and Parking Services to the driver who signs for the vehicle on the rental agreement. This includes ensuring that any additional drivers are in compliance with Section III of the Vehicle Use Procedures and familiar with the rental policies.

## D. Insurance

State employees are covered by workers compensation as drivers or passengers. It is important to note that all non-employee drivers or passengers, to include "volunteers" have no insurance coverage to include medical payments while in a state owned vehicle. Persons desiring such coverage need to make appropriate arrangements if their personal insurance policies do not provide it. All authorized drivers are protected by state liability coverage.

## E. Mexico Trips

Any trip into Mexico MUST be fully insured by a Mexican Insurance Company prior to ANY travel across the border, including Juarez. Mexican insurance must be obtained and a copy presented to Office of Transportation and Parking

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 12 | Physical Asset Management

**Rule Administrator:** Director Auxiliary Operations

**Last Updated:** 07/20/2010

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 9.35
07/20/10 Adoption of amendment approved by Board of Regents
06/08/10 Amendment approved by Administrative Council
09/08/06 Amendment ratified by Board of Regents

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 12.70 – Use of NMSU Facility Space

arp.nmsu.edu/12-70

## PART 1: PURPOSE

This rule addresses the utilization and scheduling of space at NMSU. “Space” refers to areas both inside and outside NMSU facilities owned and controlled by the NMSU Board of Regents.

## PART 2: ACADEMIC USE

For rules pertaining to the utilization and scheduling of academic space assigned by the provost and registrar, ***See ARP 12.71 – Academic Space Utilization and Scheduling.***

## PART 3: NON-ACADEMIC USE

NMSU space may be used for non-academic purposes in facilities and locations designated to be available for such use by administration, as provided by this rule and other applicable public safety rules. NMSU is funded to support its academic mission; cost for activities will be passed along to the user. External entities and individuals who request to use NMSU facilities for non-academic purposes will be charged a site use fee or be subject to a rental agreement, based on the university’s actual costs and market value as approved by university administration. Large-scale events will be subject to additional university rules and procedures which require: inter-departmental coordination between relevant departments, coordination and formal agreements between the university and event sponsors and promoters, university provided security, optional supplemental security, liability insurance and other considerations for the protection of public health, safety and welfare on university premises. ***See ARP 16.04 – Safety and Security at Public Events; ARP 16.05- Safety and Security at Private Events.***

## PART 4: PERSONAL GAIN AND COMPETITION WITH NMSU PROHIBITED

NMSU space must not be used to teach for private gain or in programs which compete directly with university-supported programs.

## PART 5: KEYS AND LOCKS

Employees of Facilities & Services (FS) are instructed not to open locked doors for any individual. The university's Access Control department within the FS Operations and Utilities department (575-646-2209) will respond to requests for access, and open doors upon confirming the identification and authority of the requestor and securing permission from an appropriate administrator. Any new keys which may need to be issued will be coordinated between Facilities & Services staff and the appropriate department head.

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 12 | Physical Asset Management

**Rule Administrator:** AVP Facilities and Services

**Last Updated:**
03/13/2019

## Related

**Cross-Reference:**

**Revision History:**

03/13/2019 Amendement approved by Chancellor

2017 Recompilation, formerly Rule 9.50 A–E

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 12.71 – Academic Facility Space Utilization and Scheduling

arp.nmsu.edu/12-71

## PART 1: PURPOSE AND SCOPE

Academic facilities are owned by New Mexico State University (NMSU), and operated to meet NMSU teaching, research, and service missions. The provost is ultimately responsible for effective academic facilities management, including the authority to assign, to relieve from assignment and to reassign academic space as necessary. The provost delegates to the registrar and to the Space Committee for implementation. This rule applies throughout the NMSU System, unless a campus adopts an independent space utilization and scheduling rule, which will be attached as an Appendix to this rule.

This policy sets forth the process used to assign academic space for academic activities; for use of NMSU space for non-academic activities, See **ARP 12.70 –Use of NMSU Facilities**.

## PART 2: DEFINITIONS

A. **Course**: A credit-bearing curricular offering of instruction, as approved by the University Curriculum Committee (UCC).
B. **Class**: The period of time during which students meet to pursue a course. Classes are scheduled to meet in classrooms unless designated as online in accordance with **ARP 4.69**. Courses may be offered in multiple sections.
C. **Event**: any meeting, programming or function that is not a course.
D. **Centrally Assigned Spaces**: University spaces scheduled by the academic scheduling staff in the Office of University Student Records. The official record of all assignable space resides in the approved scheduling software system.
E. **Departmentally Assigned Spaces**: University spaces scheduled by assigned departmental staff. The official record of all assignable space resides in the Scheduling software system.

F. **Prime time**: is Monday through Friday from 8:30 a.m. to 2:30 p.m.
G. **Space Utilization Ratios**: This ratio is the course specific fill rate calculated as average class enrollments divided by average class enrollment capacity. Balanced course ratios are between 70% and 95% with the goal being 85%.

## PART 3: SCHEDULING GUIDELINES

A. **Centrally Scheduled Classroom Priority**:
    1. First priority for scheduling centrally assigned space is given to courses. Class meeting times must be scheduled using standard time blocks as defined in section B, below. Classrooms are assigned so as to best match room capacity with class enrollment. Course capacity should be a function of instructional design and pedagogy and should rarely be set at zero (0) or a particular room size.
    2. Second priority for scheduling centrally assigned space is given to events, after all courses and related instructional activities have been scheduled in any given academic term.
B. **Standard Time Blocks**:
    To ensure ease of access for students who are having to build a schedule of classes with the least amount of conflict, and efficient utilization of classroom space on all days of the week, standard time blocks have been established. Regular-session class meetings with standard time patterns are scheduled before class meetings with non-standard time patterns. Classes meeting on a non-standard pattern must be scheduled outside of prime time. Requests for classes to be scheduled outside the standard time blocks during prime time must be approved by the college dean and the Associate Dean's Academic Council (ADAC). If approved the section will be assigned room space after all classes using the standard time block have been assigned space. Standard time blocks are determined by the Associate Deans Academic Council and maintained by the Registrar. ***See https://records.nmsu.edu/***. Classes that have not been assigned a classroom are published in the Schedule of Classes with a TBA announcement until a classroom and time can be assigned. All class schedule information is entered into the Student Information System to capture and reflect accurate course, faculty and space related information.
C. **Minimum Class Size**: Course thresholds are set at 10 or more for undergraduate courses and 5 or more for graduate courses. Deans have the authority to set higher thresholds for courses offered by their college.

D. **Prime Time**: Prime time is Monday through Friday from 8:30 a.m. to 2:30 p.m. Classes with non-standard patterns are to be scheduled before 8:30 a.m. or after 2:30 p.m. Classes using a one-day-only pattern and meeting for more than standard duration (e.g., three hour seminars) should be scheduled outside of prime time. Requests for classes to be scheduled outside the standard time blocks during prime time must be approved by the college dean and the Associate Dean's Academic Council (ADAC). If approved the section will be assigned room space after all classes using the standard time block have been assigned space.

E. **Scheduling Priority**:
    1. Classes scheduled within standard meeting times will receive first priority in classroom scheduling. Classes scheduled outside of the standard meeting times will be assigned classroom space after those classes scheduled during standard times. Where an academic unit has departmental space assignment responsibility, that unit will be given preferential scheduling within those spaces.
    2. Initial classrooms assignments are made based on pedagogical requirements and projected enrollment being equal to or greater than 85% of the room capacity. Past enrollments in comparable semesters will be considered. Classes with specialized pedagogical design are given appropriate consideration. Classes that don't meet 85% of room capacity may be moved to a smaller room with equivalent media, if available. Classes scheduled after scheduling deadlines have passed are assigned classrooms on a space-available basis.

F. **Course Capacities**: When scheduling course meetings, it is expected that accurate course capacities be included. Inaccurate course capacities negatively impacts space utilization analytics and skew predictive scheduling analytics. Course capacity should be a function of instructional design and pedagogy and should rarely be set at zero (0) or a particular room size. No instructor or department may allow the occupancy of a classroom to exceed the limit specified by fire safety codes. The classroom capacity is fixed in the Student Information System and Scheduling Software System. It is the responsibility of the department and the instructor to ensure that actual attendance does not exceed classroom capacity.

G. **Room and Time Changes**: Day and time changes are not allowed after students have begun to register for the term the class is being offered. Room changes are accommodated if a room is available. Departments/instructors should NOT continue to add students in the expectation that a larger room will be available.

H. **Class Cancellations**: If a class is cancelled, the Office of University Student Records must be notified so the class can be cancelled in the Student Information System and the classroom can be returned to available status. It is the responsibility of the academic unit to notify enrolled students when a class has been cancelled.

I. **Instructor Assignments**: When scheduling class meetings, instructor names must be entered in the Student Information System using the instructor's Aggie ID number. This ensures that the instructor's name will appear in the online *Schedule of Classes,* in other electronic applications such as online grading, and in faculty workload reports.

J. **Teaching Assistant Assignments**: When scheduling class meetings, graduate teaching assistant (TA) names and Aggie ID numbers must be provided to the Office of University Student Records. This ensures that graduate teaching assistants receive appropriate credit for work performed and that Graduate School funding allocation reports are accurate. The TA's name will not appear in the online *Schedule of Classes,* unless the TA is also the instructor of record for the section.

K. **Final Examinations**: Final written examinations, not to exceed two hours duration, are given only at the times and places established and published by the Office of University Student Records. Final examinations are generally held in the same room as class meetings. However, by prior arrangement with the Office of University Student Records, common final examinations can be scheduled and extra room locations may be booked on a space available basis. Changes in classroom location must be arranged through the Office of University Student Records. Examination codes, times, and locations are provided by the University Student Records Office and in the Student Information System.

L. **Specialized Classroom Needs**: Needs for a specialized facility, such as laboratory demonstrations and unique media needs, are considered and accommodated whenever possible. Media-equipped (SMART) classrooms are assigned on a space available basis. Departments needing a specific classroom should indicate these needs in the "Notes" section of the schedule proofs. However, standard time block and prime-time designation must be observed.

M. **Central Use of Departmentally Scheduled Rooms**: Under prior agreement with the College Dean and/or Department Chair, departmental rooms may be scheduled by the Office of University Student Records.

N. **Maintenance and Development of Classroom Technology in Instructional Space**: Centrally scheduled classroom space is maintained by central resources. These resources are coordinated by Facilities & Services in collaboration with Information and Communication Technologies and the Office of the Provost.

O. **Accommodation/Accessibility (American with Disabilities Act Compliance)**: Arrangements can be made for the change of an academic classroom due to documented accommodation and/or accessibility issues. Changes of this nature should be handled by the Office of University Student Records.

P. **Use of Centrally Assigned Space for Non-Class Event Purposes**: The Office of University Student Records will schedule centrally assigned space for events. However, class meetings always have priority. These requests are generally not processed until two weeks prior to the start of instruction of each term and are subject to change if space is needed for instructional activity

Q. **Construction / Renovation**: During periods of construction/renovation or in the event of an emergency, the provost may authorize exceptions to scheduling policies and require the use of departmentally assigned rooms to meet class needs.

R. **Change of the purpose of Classrooms**: All classrooms are centrally assigned space by the registrar, unless authorized by the Office of the Provost for the exclusive use by a specific school, college or To change the designation of a classroom. See **ARP 12.75 – Space Use Management**; Change Request Procedures.

    1. Request for a change in the purpose of a classroom space must be submitted to the University Space Committee by a Dean.
    2. The request must fully explain and justify the requested change.
    3. The request should be submitted 18 months in advance, to accommodate changes in scheduling of facilities.
    4. The University Space Committee consults with the University Registrar, and others as appropriate, on the impact of the proposed change in designation or usage.
    5. Any decision to change the designation of a classroom will be communicated, in writing, by the University Space Committee to the University Registrar and the Requestor.

S. **Conflict Resolution**: In the event of conflicts, priority is given to class meetings which demonstrate the highest seat utilization based on current projections and census date enrollment for the last three terms the course was taught. Scheduling conflicts will be resolved by the Office of University Student Records in consultation with the course associate academic dean. Space utilization and pedagogical issues are factors that influence decisions.

## Details

**Scope:** NMSU System

**Source:** ARP Administrative Rules and Procedures Chapter 12 | Physical Asset Management

**Rule Administrator:** Executive VP and Provost

**Last Updated:** 08/13/2019

## Related

**Cross-Reference:**
ARP 4.69 – Academic Rules for Distance Education

ARP 12.70 – Use of NMSU Facilities

ARP 12.75 – Procedures for Change in Use of NMSU Facilities

Appendix – ARP 12.71-A – ALCC Facility Utilization and Scheduling Guidelines

Appendix – ARP 12.71-B – DACC Facility Utilization and Scheduling Guidelines

**Revision History:**
08/13/2019 Amendment approved by Chancellor
03/13/2019 Rule adopted by Chancellor

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 12.75 – Facility Space Use Management and Procedures

arp.nmsu.edu/12-75

## PART 1: AUTHORITY OF FACILITIES SPACE PLANNING; SPACE COMMITTEE

Facilities Space Planning (FSP) is charged with the responsibility to provide the data and analysis to ensure that facility space owned by the NMSU Board of Regents (NMSU) is being used to its full potential and allocated fairly. This rule recognizes the authority of the Space Committee, established by the NMSU President in 2013, and provides the NMSU system with the rules and procedures governing changes in space allocation and use proposed by the major administrative units.

## PART 2: DEFINITIONS

A. **Allocation and re-allocation**: The current and future assignment of space based upon measured need.
B. **FSP**: Facilities Space Planning, within Facilities & Services (FS) University Architect & Space Management.
C. **FTE**: Full time equivalent.
D. **GSF**: Gross Square Footage. The entire square footage of a building including both assignable and non-assignable space.
E. **HED**: Higher Education Department.
F. **LFC**: Legislative Finance Committee.
G. **Major Administrative Unit (MAU)**: All units with a direct report either to the chancellor, campus president or the provost, pursuant to the official NMSU organizational chart.
H. **NASF**: Net Assignable Square Footage. All square footage other than unassignable square footage which includes: mechanical and electrical rooms, custodial closets, public restrooms, hallways, stairwells and elevators.
I. **Space Standards/Guidelines**: Benchmarks used to establish a reference square footage. Benchmarks may be based on student and/or employee FTE as well as other means such as budgeted dollars.

## PART 3: SPACE MANAGEMENT RULES

A. **Facility/Building Inventory**: FSP will maintain the official list of all university owned and leased buildings using the officially designated building names, numbers, acronyms and physical addresses. All departments and personnel shall use this master list when referencing any university building.
B. **Official Space/Room Numbers**: FSP will assign new building numbers whenever necessary for all newly built or leased buildings and for previously unidentified university property.
C. **Facility/Building Names**: Building names will be assigned or changed only with the approval of the Board of Regents, and recorded by FSP. (*See* **ARP 18.10- Namings**)
D. **Data Management and Reporting**: FSP will provide data, analysis, and guidance as needed to deans, department heads, and other administrative heads to assist them in best utilizing the space within their organizational units.
    1. FSP will maintain and analyze the data necessary to ensure the current and future equitable allocation of all university space resources. The data will include but not be limited to a comprehensive inventory of all university buildings and rooms, accurate digitized floor plans, and the analysis tools necessary to effectively manage space.
    2. FSP will maintain in its database the official room numbers for all accessible spaces of the university. FSP will use the standardized room numbering system developed by its predecessor, the Office of Facility Data Management.
    3. FSP will prepare the annual BRR report for the Higher Education Department, the facilities component of the IDC report, as well as any other ad hoc space related reports that are requested.
    4. FSP will periodically publish its most recent data, including comparative analysis of MAU usage and predicted needs based on adopted standards.
    5. FSP will provide ad hoc reports as requested and within the capabilities of its database.
    6. FSP will provide accurate and current data to the Registrar's office for class scheduling purposes.
E. **Role in Capital Improvement Projects**: FSP will participate in and provide input during the design phase of capital improvement projects to ensure compliance with the space standards developed by the university.
F. **Annual Space Audit**: Facilities Space Planning (FSP) will perform an

annual space audit to maintain the accuracy of the space inventory and floor plans. This data will be used for ongoing analysis to determine adequate space allocation.

G. **Standards and Guidelines for Square Footage Needs**: FSP will use standards and guidelines determined by the university architect to determine the square footage needs of all departments for comparison to the actual square footage in use.
H. **Procedures for Space Change Request**s: Any proposed or requested change in how space is allocated between colleges and/or any other major administrative unit must be forwarded to FSM for analysis and recommendation as part of the approval process.

## PART 4: FACILITY SPACE CHANGE PROCEDURES

A. **Initiation of Request**: All requests for additional space beyond that which is currently allocated or for a space reassignment must utilize the **FSM RFS form** which will be processed in accordance with these procedures. The MAU must complete and sign the Space Change Request form, and submit to FSP for review and recommendation to the Space Committee. Requests may be submitted to FSP as an email attachment or a printed document. FSP may also act independently to identify a need to reallocate space, and initiate the FSP Space Request process, to be processed in accordance with this rule.
B. **Processing of Request**: Upon receipt of a completed FSP Space Request, FSP will perform an analysis, including a comparison of existing and requested additional square footage to determine the need for new space, based upon the standards and guidelines determined by the university architect. FSP will present its findings and recommendations, with supporting documentation attached, to the Space Committee, and send a copy to the requestor and to the head of any MAU affected by the recommendation. The Space Committee will review the information submitted and render a decision and return it to FSP for implementation.
C. **Stipulated/Expedited Approach**: To maximize efficiency and streamline operations, when there is no dispute between NMSU departments concerning a proposed change in space allocation or use, FSP is authorized to expedite the process and implement changes.
D. **Dispute Resolution**: If the requestor or affected MAU or other party disputes the FSM recommendation or the Space Committee's findings and decision, the appropriate campus president will facilitate to ensure that a decision is reached in the best interest of NMSU. At the campus president's discretion, further review may include input from any

appropriate committee or board, or additional input from the heads of the affected MAU's.

E. **Approvals Required to Implement Change**: No space will be reassigned without the official FSP Space Request form completed, the University Space Committee and the appropriate campus president's approval.

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 12 | Physical Asset Management

**Rule Administrator:** AVP Facilities and Services

**Last Updated:**
03/13/2019

## Related

**Cross-Reference:**

**Revision History:**

03/13/2019 Amendement approved by Chancellor

2017 Recompilation, formerly Rule 9.50 F.

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 12.80 – Facility Maintenance Costs -Services Billable to Departments

arp.nmsu.edu/12-80

## A. NMSU – Las Cruces

Facilities and Services is funded by the state and by NMSU for the operation and maintenance of Instruction and General (I&G) Space. Most routine maintenance services to I&G space are provided without charge by Facilities and Services, while as a general rule, non-routine maintenance activities are charged back to the customer. Services paid for by the NMSU entity that occupies the space are called billable services. Upon request, Facilities and Services will provide estimates for billable work. All services rendered in support of non-I & G buildings are billable. Services rendered in support of I & G buildings may or may not be billable, depending on the type of service. Facilities and Services publishes a detailed schedule of those services that are provided as well as a schedule of billable services. Each year the State of New Mexico allocates funds to be used for the renovation, repair, and remodeling of I & G buildings and infrastructures at the university (BRR funds).

## B. Community Colleges and Other NMSU Properties

Facilities and Services provides maintenance and minor modification support, on a reimbursable basis, to any community college or off-campus site. Due to distances involved, most of that support is limited to the Las Cruces area.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 12 | Physical Asset Management

**Rule Administrator:** AVP Facilities and Services

**Last Updated:** 08/22/2011

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rules 9.15 & 9.25
08/22/11 Amendment to Rule 9.15 approved by Board of Regents

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 12.90 – NMSU Real Estate

arp.nmsu.edu/12-90

For the purposes of this rule, "NMSU real estate" is defined as all land owned or leased by NMSU. For purposes of this rule, a real estate "transaction", means any easement, lease, right-of-way, memorandum of understanding, letter agreement, use agreement, license agreement or other agreement that may increase NMSU's risk of liability or affect the use of, or interest in, NMSU real estate.

## A. Authority of the Board of Regents

1. **Titleholder:** Legal title to all NMSU real estate (land, buildings, air rights, water rights and mineral rights) is vested in the Board of Regents, without regard to the academic or administrative entity that occupies or otherwise uses the real estate.
2. **Authority to Convey Property:** The title to all property belonging to the university is vested in the Board of Regents as a corporate body. NMSA 1978, § 21-3-4. Pursuant to NMSA 1978, § 21-1- 20, the Board of Regents is authorized to buy, sell, lease, or mortgage realty and take such other action, in the best interests of the university.
3. **Retention of Authority:** The Board of Regents specifically reserves the authority to review and take action with regard to all transactions permanently affecting NMSU real estate, including all sales and acquisitions and encumbrances. The board delegate's authority and responsibility to the Chancellor or designee to review, approve and execute the following types of real estate transactions:
    a. Real estate transactions involving a term of less than ten (10) years, including any options to extend; and
    b. Real estate transactions not to exceed a total university cost liability (excluding operating expenses) of $100,000 per year; and
    c. Real estate easements which grant a specific, limited use of real property for a term not to exceed ten (10) years. Such uses shall include agreements relating to access, utilities installations, data/telecommunications facilities, rights of way, ingress, egress, sanitary sewers, pipelines and drainage.

## B. General Policy Regarding NMSU Real Estate

1. **Collaboration between NMSU Offices**: The Office of Real Estate shall serve as coordinator for the academic and administrative units for all real estate transactions. Contacts from non-university entities regarding real estate shall be directed to the Office of Real Estate.
    a. Each proposed real estate transaction of any type or nature shall be initiated by consultation with the director of the Office of Real Estate. Such consultation shall occur as early as possible in the planning process, in order to maximize the university's bargaining position, and in order for the Office of Real Estate to better provide the academic or administrative unit with guidance regarding the nature of the transaction and estimated time and cost needed for completion.
    b. After the initial consultation with the Office of Real Estate, the academic and administrative units may make general inquiries and conduct general discussions with third parties; however, all official negotiations with property owners, developers, landlords, realtors, brokers and other third parties shall be conducted on behalf of the university by the Office of Real Estate.
2. **Philosophy**: NMSU is expected to preserve, enhance and maximize the productivity of its real estate assets. It is the policy of the university to preserve adequate land area for all foreseeable academic and support needs and to utilize to the best possible advantage to the university all land areas surplus to the academic and support needs.
3. **Purpose**: NMSU real estate, consisting of land, buildings, air rights, water rights and mineral rights, shall be acquired, used or disposed of consistent with the university's mission, strategic master planning efforts, and within approved budgets.
    a. NMSU property shall not be made available for individual use or gain.
    b. Acquisitions and gifts of interests in real estate shall not create excess risk of liability or financial exposure, shall support the university's mission, and are subject to acceptance by the Board of Regents.
    c. NMSU real estate may only be sold or otherwise disposed of after determination by the affected department, the cognizant dean or vice president that it is in the best interest of the university, recommendation from the Regents' Real Estate Committee, if any, and approval from the Board of Regents, as well as compliance with other state requirements.
4. **Oversight of Physical Property**: Academic and administrative units are responsible for ensuring that the real estate and/or space occupied by, or assigned to, them is being used in accordance with university policy, rules and procedures.
5. **Minimization of Risk of Liability:** The risk of loss to the university shall be minimized with each real estate transaction. Each real estate transaction shall therefore be conducted in accordance with procedures established by the Office of Real Estate, and consistent with finance, purchasing, and other state law requirements.

6. **Deposit and Use of Proceeds**: Proceeds derived from the sale, lease or consideration for NMSU real estate interests are restricted and will be used for nonrecurring capital outlay items which are typically not funded from traditional sources. Specific proposals will be presented to the Board of Regents for approval before any commitments are made against these funds.
7. **Effect on Title**: Easements, leases, rights-of-way and other real estate transactions that may encumber NMSU's real estate shall:
    a. Be limited to the specific purpose requested; and
    b. Be limited to the minimum amount of land necessary for the proposed operation; and
    c. Be limited to the shortest term that will accommodate the proposed operation; and
    d. Be based upon fair market value or appraisal comparables to ensure that the university receives adequate consideration, if applicable.
8. **Periodic Needs Assessments**: Facilities and Services, the Office of Space Management, and the Office of Real Estate shall coordinate to conduct periodic reviews of real estate with the college and library deans, vice presidents, vice and associate provosts and directors to ensure their real estate needs are being met, and to identify any changes that may need to be made.

## C. Responsibilities of NMSU Office of Real Estate

1. The University's Representative for Real Estate Transactions: NMSU entities shall collaborate-rate regarding, and the Office of Real Estate shall oversee real estate transactions on behalf of the university. Such transactions include, but are not limited to:
    a. Leases of real estate (regardless of ownership),
    b. Acquisition and disposal of real estate or interests therein,
    c. Enhancement and development of NMSU real estate,
    d. Easements (regardless of ownership),
    e. Rights-of-Way (regardless of ownership),
    f. Memorandums of Understanding (relating to real estate),
    g. Temporary Use Agreements, and
    h. Access Agreements.
2. Coordination with Other University Departments: The Office of Real Estate shall ensure that each real estate transaction is reviewed by the affected department or administrative unit, and the cognizant dean or vice president; the Office of Administration and Finance, including the Procurement Services Office and Facilities and Services; and the Office of the University General Counsel prior to presenting for review to the Chancellor or designee and approval by the Board of Regents. The

Office of Real Estate may develop and require routing forms and checklists for this purpose.

3. Lead Negotiator and Preparer of Documents: Consistent with the legal opinion of the Office of the University General Counsel, and in coordination with the head of the affected academic or administrative unit, the director of the Office of Real Estate shall negotiate and prepare all real estate transactions for approval and signature by the Board of Regents.
4. Repository of Original Documents: The Office of Real Estate shall be responsible for the proper retention and safe storage of original real estate documents.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 12 | Physical Asset Management

**Rule Administrator:** Director Real Estate

**Last Updated:** 05/10/2013

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 9.20
05/10/13 Amendment approved by Board of Regents
03/12/12 Amendment approved by Board of Regents
12/09/11 Amendment approved by Board of Regents
08/22/11 Amendment approved by Board of Regents
07/15/08 Adoption of amendment ratified by Board of Regents
05/09/08 Amendment approved by Administrative Council
09/08/06 Adoption of amendment approved by Board of Regents
06/13/06 Amendment approved by Administrative Council

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# Chapter 13 | Financial Resource Management

arp.nmsu.edu/chapter-13

## Subsections in Chapter 13

- 13.10 – Investment Management
- 13.15 – Reserves
- 13.30 – Bonds – Post-Issuance Tax Compliance Procedures
- 13.33 – Bonds – Continuing Disclosure Procedures

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 13 | Financial Resource Management

**Rule Administrator:**
**Last Updated:** 06/28/2017

## Related

**Cross-Reference:**
**Revision History:**

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 13.10 – Investment Management

arp.nmsu.edu/13-10

## PART 1: INTRODUCTION AND OBJECTIVE

This Rule provides the regulatory framework and procedural requirements applicable to the university's investment transactions, including prudent investment of cash balances, and maximization of the efficiency of the university's cash management system.The manager of banking, investment, and tax (investment manager) will perform investment management responsibilities outlined in this Rule. Except for non-discretionary funds defined in Part 3, the goal of the university's investment program is to achieve a rate of return on investments at least equal to the average rate of return on the one-year U.S. Treasury bill for the reporting period, or other appropriate performance measures as determined by the senior vice president for administration and finance (SVPAF).

## PART 2: PERMITTED AND PROHIBITED INVESTMENTS

### A. Permitted Investments

Permitted Investments are only those securities and deposits specifically authorized by statute and not contrary to §6-10-10 and §§46-9A-1 through 46-9A-10 NMSA 1978, other investment statutes, existing bond covenants or any other externally placed restrictions. The investment manager may invest cash balances not required for immediate disbursement, including non-discretionary bond proceeds, in specific types of money market accounts and in the following investments subject to acceptable underlying investment grade ratings in Part 6:

1. Cash at Banks, Savings and Loan Associations or Credit Unions whose deposits are insured by an agency of the United States;
2. Securities issued by the United States government;
3. Securities issued or guaranteed by United States government agencies or

Government Sponsored Enterprises (GSE);

4. Corporate Bonds issued by corporations that are organized and operating in the United States;
5. The Local Government Investment Pool;
6. Securities issued by the State of New Mexico, it's agencies, institutions, counties, municipalities, school districts, community college districts or other subdivisions of the state, or as otherwise provided by law;
7. Securities issued by states other than New Mexico or governmental entities in states other than New Mexico;
8. FDIC-insured Bank CD's; or
9. Repurchase agreements. Repurchase agreements involve the sale of a security combined with an agreement to repurchase the same security at a higher price at a future date.
    a. **Repurchase agreement transactions are subject to the following restrictions**:
        i. Transactions will be conducted only with approved dealers, the fiscal agent bank, approved counterparties under a secure lending arrangement, or the master custodial bank;
        ii. Counterparties will have an Investment Grade Rating as provided in this rule;
        iii. Transactions with any single counterparty will not exceed 35% of total repurchase agreements (see Part 7); and
        iv. The maximum term of any repurchase agreement will be one (1) year.
    b. **Securities accepted as collateral for repurchase agreements will be subject to the following *additional* restrictions**:
        1. Securities placed as collateral for repurchase agreements, with maturity under ten (10) years, will be priced at 102% of market value, plus accrued income;
        2. Securities with a final maturity of 10 years or greater placed as collateral for repurchase agreements will be priced at 103% of market value, plus accrued income;
        3. Agency mortgage-backed securities placed as collateral for term repurchase agreements with a maturity longer than seven days will be priced at 105% of market value, plus accrued income;
        4. Term repurchase agreements with a maturity date that is longer than seven days are required to have daily pricing of collateral; and
        5. Only treasury and agency securities will be utilized as collateral for repurchase agreements.

## B. Prohibited Investments

To provide for the safety and liquidity of funds, the following investments are prohibited:

1. Short Sales;
2. Whole Loan Mortgage Obligations;
3. Reverse Repurchase Agreements, except under a securities lending arrangement;
4. Inverse Floating Rate Notes;
5. Equity Securities; or
6. Swaps and Derivatives.

## PART 3: NON-DISCRETIONARY FUNDS

Non-discretionary funds are externally restricted to specific types of investments. They include, but are not limited to: bond proceeds; endowments managed by the university; and other sponsored project or gift funds with specific investment requirements.

A. **Compliance with External Restrictions:** All non-discretionary funds will be invested in compliance with accepted external restrictions.
B. **Permitted Investment of Non-Discretionary Funds:** Except as may be prohibited by law, non-discretionary funds may be invested in:
    1. Obligations, the interest on which is excluded from gross income of the recipient for federal tax purposes, and any other instrument which does not constitute investment property under section 148 of the Internal Revenue Code, as amended from time to time, which is rated in any of the three highest major Rating Categories by any nationally recognized rating agency; or
    2. Any other investment specifically permitted by bond resolution authorizing the issuance of the bonds or other securities or set forth in a resolution, escrow agreement or trust agreement, relating to the bonds or other

## PART 4: INVESTMENT MANAGEMENT RESPONSIBILITIES

### A. Delegation of Authority to Manage University's Investment Program

Responsibility for the day-to-day management of the university's investment program is delegated through the SVPAF to the treasury services department of that unit. The manager of the treasury services department shall act as the

investment manager for the university.

## B. Responsibilities of Investment Manager

The investment manager shall:

1. Monitor cash flow and select investments to meet anticipated cash requirements, and provide adequate liquidity to meet university obligations.
2. Manage the university's investment portfolio, including all purchases, sales and trading activities to meet the university's portfolio objective. Portfolio management includes responsibility for timely deposit and safekeeping of all cash balances of the university, and the direct responsibility for placing specific investments with financial institutions in accordance with this rule.
3. Recommend investment guidelines to the SVPAF and designees, including recommended investment maturities.
4. Present short-term and long-term investment recommendations for new monies to the associate controller.
5. Prepare a comprehensive set of reports designed to keep the SVPAF and designees fully apprised of all investment transactions and current status of the university's investment portfolio.
6. Maintain a system of internal controls to guarantee the integrity and security of the university's investment portfolio and cash balances.
7. Analyze continually the risk/reward relationships existing in the marketplace with particular emphasis given to the following factors when selecting a specific security for inclusion in the university's portfolio:
    a. **Relative Yield-to-Maturity**: comparison of return available from alternate investments for comparable maturity dates.
    b. **Marketability**: analysis of relative marketability of alternate investments in case of forced sale and/or possibility of future trade.
    c. **Intermarket Yield Analysis**: analyze the spread relationship between sectors of the market, e.g., Treasury Bill vs. Discount Notes, to take advantage of yield differentials.
    d. **Yield Curve Analysis**: analyze the slope of the yield curve to determine most attractive maturities for earning maximum return with minimum risk.
    e. **General Economic and Interest Rate Outlook**: review and analyze current literature on interest rate projections to assist in timing transactions and selecting appropriate maturities.

# PART 5: MATURITY RESTRICTIONS

A. The investment portfolio shall remain sufficiently liquid to meet all operating requirements that may be reasonably anticipated. This is accomplished by structuring the portfolio so that securities mature concurrent with cash needs to meet anticipated demands (static liquidity). Furthermore, since all possible cash demands cannot be anticipated, the portfolio should consist largely of securities with active secondary or resale markets (dynamic liquidity).
B. The investment manager will not commit any discretionary funds to maturities longer than ten (10) years from the date of purchase.
C. Funds will only be committed to maturities longer than five (5) years from the date of purchase if directly related to a specific capital or other long-term project.
D. Investment of non-discretionary funds will reflect maturity dates not to exceed the final maturity dates established within the funds' restrictive purposes.
E. **The following maturity limits shall apply to investment portfolio**:

| Allowable Securities | Maturity Limits |
|---|---|
| Certificates of Deposit | 3 years |
| Municipal Bonds | 3 years |
| Repurchase Agreements | 1 year |
| All other Securities | 5 years |

# PART 6: DIVERSIFICATION

## A. Diversification Requirement

The investment manager will diversify its use of investment instruments to avoid incurring unreasonable risks inherent in over-investing in specific instruments, individual financial institutions or maturities.

## B. Parameters for Investments

With regard to the Investment Type table below: 1) the university's investment portfolio shall be structured within the parameters of the tolerance level amounts noted, and 2) with the exception of U.S. Treasury securities and

authorized pools, and in accordance with the issuer limits, no more than 50% of the total investment portfolio will be invested in a single security type or with a single financial institution or at a single maturity.

| Investment Type | Quality Criteria | Tolerance Level Amount | Issuer Limits (within corresponding tolerance level) |
|---|---|---|---|
| U.S. Treasuries | Full faith and credit of United States | 100% of portfolio | Unlimited |
| U.S. Government Agencies guaranteed by full faith and credit of the U.S. | Full faith and credit of United States | 100% of portfolio | Not to exceed 50% |
| U.S. Government Agencies (non-full faith and credit) | Limited to Investment Grade Ratings defined in this rule | 50% of portfolio | Not to exceed 50% |
| FDIC-insured Bank CD's | Within the current FDIC insurance limit | 100% of portfolio | Within the current FDIC insurance limit |
| Corporate Bonds | Limited to Investment Grade Ratings defined in this rule | 20% of portfolio | Lesser of 5% or $5M |
| Municipal Securities | Limited to Investment Grade Ratings defined in this rule | 25% of portfolio | Lesser of 5% or $5M |

| | | | |
|---|---|---|---|
| Repurchase Agreements | Limited to Investment Grade Ratings defined in this rule | 50% of portfolio | 35% per counterparty |

### C. Investment Grade Ratings

The following are the acceptable underlying Investment Grade Ratings:

| Rating Agency | Long Term | Short Term |
|---|---|---|
| Standard & Poor's | A to AAA | A-1 |
| Fitch | A to AAA | F1 |
| Moody's | A2 to Aaa | P-1 |

### D. Issuer Credit Rating Limits

The following are the Issuer Credit Rating limits which shall apply to investment portfolio:

| | |
|---|---|
| **Short Term Credit Rating** | A-1, P-1, F1, MIG-1 or better |
| **Long Term Credit Rating** | A/A2 or better |

## PART 7: BOND SALE

A. **Bond Sale:** Bonds shall not be sold prior to maturity subject to the following exceptions:
   1. A bond with declining credit may be sold early to minimize loss of principal.
   2. A bond swap that would adjust the portfolio (quality, yield, or duration) in a manner that would allow it to better fulfill the investment objectives. A bond swap is a debt swap involving the exchange of a new bond issue for similar outstanding debt.
   3. Liquidity needs of the portfolio require that the bond be sold.
   4. When a bond call is imminent and the early sale of the bond results in the bond being sold at a premium.

B. **Loss Recordation:** In many yield pickup transactions (particularly when interest rates are rising), a book loss must be recorded at the time of the sale of the owned investment. It is the policy of the university to charge

the loss against the interest income account, recognizing that this loss will be fully recovered, and an incremental gain will be earned, over the life of the original investment.

## PART 8: SAFEKEEPING AND COLLATERALIZATION

A. **Safekeeping Receipts:** All investment securities, other than local financial institution Certificates of Deposit purchased by the university, will be held in the university's name by a third-party custodian approved by university administration. All transactions will be evidenced by safekeeping receipts.
B. **Collateralization:** Deposit-type securities will be collateralized in accordance with the collateral policy of the State of New Mexico's Board of Finance.

## PART 9: AUTHORIZED FINANCIAL DEALERS AND INSTITUTIONS

A. **Authorization of Financial Institutions and Security Broker/Dealers:** The investment manager will maintain a list of financial institutions authorized to provide investment services. In addition, a list will be maintained of approved security broker/dealers selected by credit-worthiness. These may include primary dealers or regional dealers that qualify under Securities and Exchange Commission Rule 15C3-1 (uniform, net capital rule) and a member of FINRA and SIPC.
B. **Annual Review of Financial Institutions and Security Broker/Dealers:** An annual review of the financial condition and registrations of qualified dealers and institutions will be conducted using FINRA Broker Check services by the investment manager. A current audited financial statement is required to be on file for each financial institution and broker/dealer with which the university deposits and invests monies.
C. **Local Preference:** The investment manager may give preference to investment with local dealers and institutions within the guidelines of this Rule. Investment with out-of-state dealers and institutions will require prior approval of the SVPAF or designees.

## PART 10: INVESTMENT POOLS AND INTEREST ALLOCATION

A. **Pooling of Investments and Monthly Accrual of Earnings:** Except as

noted below, the investments of the university (including amounts held in interest-bearing demand and time deposits) are pooled in order to determine a weighted average monthly interest earnings rate. In order to compute this rate, all such investment earnings are accrued monthly, including amortizing premiums and crediting discounts on short and long-term investments.

B. **Allocation of Monthly Interest Earnings:** The monthly earnings on these pooled investments are allocated to various university accounts in accordance with externally mandated requirements (e.g., bond resolutions) and other internal designations. Nothing herein shall prohibit separation of bond proceeds, reserve funds, or other non-discretionary funds from the pooled investment fund. The SVPAF approves all such internal designations. The allocation is based upon the monthly cash balance in each of these university funds, with the remaining balance of the pooled earnings being allocated to the unrestricted current fund.
C. **Percentage of Cash Balance Invested; Discretion of SVPAF:** Under this method, all of these designated university funds (other than the current unrestricted fund) will be presumed to have 100% of their cash balances invested in the pooled investment account, unless the SVPAF determines that lesser percentage is to be utilized for a given fund.
D. **Separation of Investment Accounts; Discretion of SVPAF:** At the discretion of the SVPAF separate investment accounts may be set up at external institutions and utilized to adequately monitor the earning of certain university funds. These separate funds are also restricted to investments that are permitted under this Rule.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 13 | Financial Resource Management

**Rule Administrator:** Senior VP for Administration and Finance

**Last Updated:** 10/11/2016

## Related

**Cross-Reference:**
***See also:***

**RPM 13.10 - Investment of University Funds**

**Revision History:**

2017 Recompilation
10/11/2016 Rule 13.10 approved by Chancellor
10/19/2016 former Policy 13.10 replicated by Board of Regents as initial Rule 13.10
10/21/2015 former Policy 2.37 replicated by Board of Regents as initial Rule 2.37
Prior revision history as Policy 2.37 not available

---

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 13.15 – Reserves

arp.nmsu.edu/13-15

Reasonable budget balances shall be maintained for the efficient operation of the university.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 13 | Financial Resource Management

**Rule Administrator:** Senior VP for Administration and Finance

**Last Updated:** Not Available

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 2.57

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 13.30 – Bonds – Post-Issuance Tax Compliance Procedures

arp.nmsu.edu/13-30

## PART 1: PURPOSE

This rule fulfills the directive set forth in **Regents Policy 13.30** by providing guidelines and procedures necessary to fulfill the university's post-issuance tax compliance obligations related to the university's tax exempt bonds and loans. These procedures guide the Senior Vice President for Administration and Finance (SVPAF), also the Post-Issuance Tax Compliance Officer ("Compliance Officer") or designees in the efforts to monitor post-issuance tax compliance and more specifically to comply with the covenants in bond documents and duty to the obligations set forth in federal tax law.

## PART 2: FEDERAL TAX LAW COMPLIANCE

The SVPAF, as the Compliance Officer or designees, are responsible for functions relating to federal tax law compliance listed below.

A. **Proper Use of and Allocation of Bond Proceeds**: The Compliance Officer or designees will ensure that Bond proceeds are allocated to expenditures in a manner that is consistent with the purpose for which each Bond issue was undertaken, as set forth in the Bond Documents. The Compliance Officer or designees will also ensure that allocations of Bond proceeds to expenditures are timely made in accordance with the applicable tax regulations. (e.g., as of the date of adoption of these Procedures, for each Bond issue, allocations of Bond proceeds to expenditures must be made within 18 months after the later of the date the expenditure was made or the date the project was placed in service, but not later than the earlier of five years after the Bonds were issued or 60 days after the Bond issue is retired.)

B. **Investment of Bond Proceeds**: The Compliance Officer or designees will ensure that Bond proceeds are invested in investments that are permissible under the Bond Documents, and any applicable state laws and federal tax laws (e.g., federal tax law requires that investments purchased with Bond proceeds must be purchased and sold at fair market value).

C. **Arbitrage Calculations**: The Compliance Officer or designees will ensure the timely completion of arbitrage yield restriction and rebate calculations and filings for each issue of Bonds.
D. **Yield Reduction/Rebate Payments**: The Compliance Officer or designees will ensure the timely payment, if applicable, of yield reduction payments and/or rebate, for each issue of Bonds.
E. **Use of Bond-financed Facilities**: The Compliance Officer or designees will review any agreement or other arrangement for the sale, lease, or use of any portion of any Bond-financed facilities, including, but not limited to, service, vendor and management contracts, research agreements, licenses to use Bond-financed property or naming rights agreements for compliance with federal tax laws and the Bond Documents. The Compliance Officer will consult bond counsel for further guidance if necessary.
F. **Post-Issuance Transactions**: The Compliance Officer will, as directed by the Bond Documents or as otherwise deemed appropriate by the Compliance Officer, consult with bond counsel before making any changes or amendments to Bond Documents for a Bond issue, including, but not limited to entering or modifying investment agreements; making any change in security for the Bonds, engaging in post-issuance credit enhancement transactions (e.g., change in letter of credit) or hedging transactions (e.g., interest rate swap, cap); terminating or appointing a successor trustee; changes in mode, releasing any liens; or reissuing a Bond issue.
G. **Remedial Action**: If at any time during the life of a Bond issue, the Compliance Officer or designees discover that a violation of federal tax law requirements applicable to that issue may have occurred, the Compliance Officer may consult with bond counsel to determine whether any such violation actually has occurred. If the Compliance Officer determines that a violation has in fact occurred, the Compliance Officer will notify the Board of Regents (the "Board") so that the Board may take appropriate remedial measures.

# PART 3: RECORDS MAINTENACE

The Compliance Officer is responsible for maintaining records related to the Bonds in accordance with this Rule.

A. **Central Inventory of Records**: The Compliance Officer will maintain a central list of records related to each issue of bonds. The list shall identify (1) The name and date of the document related to the issue, (2) the position or office responsible for the document, and (3) the physical or electronic location of the document.
B. **Documents to be Maintained**: The following documents will be maintained at the Compliance Officer's office (the "Bond Records") in electronic and/or hard-copy

format for the term of each issue of Bonds (including refunding Bonds, if any), plus at least three years after the April 15 of the year the last Bond of each issue is retired:

1. The bond transcript for each Bond issue (which includes among other Bond Documents, the trust indenture, loan, lease, or other financing agreement, the relevant IRS Form 8038 (including Forms 8038-G or 8038, as applicable) with proof of filing, the bond counsel opinion and the tax agreement including all attachments, exhibits and any verification report);
2. Records of debt service payments for each issue of Bonds;
3. Documentation evidencing the expenditure of Bond proceeds, such as construction or contractor invoices and receipts for equipment and furnishings, bond trustee requisitions and project completion certificates, as well as records of any special allocations made for tax purposes including post-issuance changes in allocations;
4. Documentation evidencing the lease or use of Bond-financed property by public and private sources, including, but not limited to, service, vendor, and management contracts, research agreements, licenses to use Bond-financed property, or naming rights agreements;
5. Documentation pertaining to investment of Bond proceeds, including the yield calculations for each class of investments, actual investment income received from the investment of proceeds, investment agreements, payments made pursuant to investment agreements and rebate calculations and copies of any 8038-T or 8038-R filed with respect to the Bonds;
6. Documentation pertaining to remedial action and other change-of-use records;
7. Amendments and other changes to the Bond Documents (including interest rate conversions and defeasances);
8. Letters of credit and other guarantees for Bond issues; and
9. Interest rate swaps and other derivatives that are related to Bond issues.

C. **Deadline Reminder System**: For any Bond issuance subsequent to the date of adoption of these procedures, a deadline reminder sheet will be completed within two weeks of the date such adoption.

# PART 4: ASSISTANCE OF BOND COUNSEL

The Compliance Officer may engage bond counsel to assist in implementing these procedures, including, but not limited to, assistance in the following areas:

A. Rebate calculations and compliance;
B. Records retention;
C. Periodic review of the Bond Records for compliance with federal tax laws regarding private business use;

D. Determination of whether a violation of federal tax law requirements applicable to that Bond issue may have occurred and the University's options to address the violation so the preferential tax status of the Bond issue is maintained;
E. Termination or modification of any interest rate swaps or other derivatives;
F. Review of investment agreements;
G. Modifications to Bond Documents; and
H. Other federal tax law compliance, including any annual reporting requirements that may be imposed by the IRS.

## PART 5: REVIEW

The Compliance Officer is responsible for an annual review of each outstanding Bond issue pursuant to these Procedures. Reviews will focus on events that happened in the immediately preceding year (e.g., new investment agreements, whether a spending exception threshold was met, whether there was a change in use of a portion of the Bond-financed facility). The Compliance Officer may delegate all or any portion of the reviews to other employees, but such employees must report their findings to the Compliance Officer. The Compliance Officer will make recommendations to the Board as appropriate to ensure compliance with any covenants in the Bond Documents and other federal tax law requirements, which must be complied with to maintain the preferential tax status of the Bonds.

## PART 6: FEDERAL TAX TRAINING REQUIREMENTS

On an annual basis every year, the Compliance Officer or designees will undergo training regarding basic federal tax concepts relating to the Bonds and records required to be maintained under these procedures. Such training may include, but is not limited to attending post-issuance compliance sessions presented by the Government Finance Officers Association (GFOA), National Association of Bond Lawyers (NABL) or other similar trade organizations and public finance law firms and arbitrage compliance specialists.

## Details

**Scope:**
**Source:** ARP Chapter 13 | Financial Resource Management

**Rule Administrator:** Senior VP for Administration and Finance

**Last Updated:** 04/10/2018

## Related

**Cross-Reference:**
**RPM - 13.30**

**Revision History:**

4/10/18 Rule adopted by Chancellor

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 13.33 – Bonds – Continuing Disclosure Procedures

arp.nmsu.edu/13-33

## PART 1: PURPOSE

This rule fulfills the directive set forth in Regents Policy 13.33 by providing guidelines and procedures necessary as required by federal securities laws to fulfill the university's obligation of post-issuance continuing disclosures related to the university's bonds and loans.

## PART 2: TYPES OF DISCLOSURE GOVERNED BY THESE PROCEDURES

NMSU will use the procedures set forth in this rule in connection with the forms of disclosure listed in this Part (collectively, "Disclosure Documents").

### A. Primary Disclosure

1. Preliminary Official Statements
2. Final Official Statements

### B. Secondary Disclosure

1. **Continuing Disclosure**. Examples of a Continuing Disclosure include annual reports and notices of specified events provided pursuant to a continuing disclosure agreement.
2. **Voluntary Disclosure**. Examples of a Voluntary Disclosure include quarterly financial information, a change in fiscal year and other financial or operation information, amendments to continuing disclosure undertakings, a change in obligated persons, or other event-based disclosures.

### C. Other Disclosure

1. **Material Information**. Information about NMSU that is material and reasonably expected to reach investors. Information is material if there is a substantial likelihood

that it would be considered significant by a reasonable investor. An example of material information includes financial information on NMSU's website such as NMSU's budget and fiscal reports; public statements regarding NMSU's finances that are made by NMSU representatives.

2. **Statements or Omissions related to the Tax Status of NMSU's Obligations.** Examples of this type of Other Disclosure include **s**tatements or omissions in tax certificates, loan agreements or other documents relied on by bond counsel.

# PART 3: DISCLOSURE TRAINING

The Senior Vice President for Administration and Finance (SVPAF), also the university's Bond Compliance Officer, is charged with the responsibility of retaining bond counsel and/or disclosure counsel. The SVPAF or designee shall work with such counsel to create, implement and periodically revise ongoing disclosure compliance training. The SVPAF or designee shall receive disclosure training related to federal securities laws, as well as training related to their role in preparing NMSU's Disclosure Documents.

# PART 4: CONTINUING DISCLOSURE DUTIES AND RESPONSIBILITIES

With the assistance of bond counsel or disclosure counsel, the SVPAF, as the Bond Compliance Officer, will do or cause the following to be done:

A. **Monitor Compliance on a Weekly Basis**. In addition to the filing of annual reports, NMSU must provide a Notice of Event as specified in NMSU's continuing disclosure undertakings. Generally, an Event Notice must be provided to the Municipal Securities Rulemaking Board within ten business days after the occurrence of such event. In order to ensure compliance with NMSU's continuing disclosure undertakings, the SVPAF or designee shall review the list of events specified in NMSU's continuing disclosure undertakings on a weekly basis to determine whether any such event has occurred that may require notice.

B. **Verify Primary Disclosure at Key Times**. NMSU's Preliminary and final Official Statement must not contain any untrue statement of material fact, or omit to state a material fact necessary to make the statements made therein, in the light of the circumstances under which they were made, not misleading. The SVPAF or designee must verify the accuracy of its primary disclosure not only during drafting and review, but also at the time of (i) posting or mailing the Preliminary Official Statement, (ii) pricing of NMSU's bonds or loans, and (iii) at the time of closing of the transaction. If developments occur that may make NMSU's primary disclosure

inaccurate or incomplete as described above, the SVPAF or designee will work with the disclosure counsel and/or bond counsel to remedy these potential issues.

C. **Address Issues and Questions Promptly**. Everyone who participates in creating or reviewing a Disclosure Document should promptly address issues that arise throughout the disclosure process. The SVPAF or designee and Responsible Parties must address and resolve all questions they may have regarding the accuracy and completeness of a Disclosure Document.

D. **Consider Missing Information**. Instead of simply updating numerical data from one year to another, Responsible Parties and the SVPAF or designee must consider what might be missing from Disclosure Documents. For example, material developments related to NMSU's financial condition may have occurred, cost projections for a project may have changed or laws affecting NMSU may have been enacted. Material developments such as these may not appear in prior Disclosure Documents and therefore cannot be adequately disclosed by simply updating prior Disclosure Documents.

E. **Encourage Disclosure Team Members and others to Raise Issues**. Responsible Parties, the SVPAF or designee, and any other participants have a duty to carefully consider and question the information in Disclosure Documents to ensure that NMSU's disclosure is complete and accurate. Issues and questions regarding the completeness or accuracy of any Disclosure Document should first be raised internally. Such questions should be discussed with the SVPAF or designee, university general counsel, bond counsel or disclosure counsel, and others within NMSU until resolved.

F. **Conduct Annual Review of Procedures**. The SVPAF or designee will review these procedures no less than annually and will periodically consult with bond counsel and/or disclosure counsel to ensure these procedures are effective in producing disclosures that are accurate, complete and in compliance with federal securities laws.

## Details

**Scope:**
**Source:** ARP Chapter 13 | Financial Resource Management

**Rule Administrator:**
**Last Updated:** 04/10/2018

## Related

**Cross-Reference:**
**Revision History:**

4/10/18 Rule adopted by Chancellor

© 2017 New Mexico State University - Board of Regents

# Chapter 14 | Business Operations

Go to RPM

ARP Crosswalk

## Subsections in Chapter 14


- 14.01 – Compliance with Business Procedures Manual
- 14.05 – Administrative Office Hours
- 14.10 – Records Integrity and Retention
- 14.15 – College Budget Committee
- 14.56 – Procurement, Generally
- 14.57 – Procurement of Professional Services Contracts
- 14.58 – Procurement of Professional Design Services
- 14.69 – University Related Travel Guidelines
- 14.92 – Sales and Solicitation

New Mexico State University

# 14.01 – Compliance with Business Procedures Manual

arp.nmsu.edu/14-01

NMSU officials, employees, volunteers and students must adhere to the provisions of the Business Procedures Manual, as may be relevant to their employment or activities at NMSU.

## Details

**Scope:** NMSU System

**Source:** ARP Administrative Rules and Procedures Chapter 14 | Business Operations

**Rule Administrator:** Senior VP for Administration and Finance

**Last Updated:** 06/12/2019

## Related

**Cross-Reference:**
Business Procedures Manual

**Revision History:**
06/12/2019 Rule approved by Chancellor

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 14.05 – Administrative Office Hours

arp.nmsu.edu/14-05

Subject to exceptions as authorized by the campus president, all NMSU administrative offices will remain open to serve constituents during the standard business hours of  Monday through Friday from 8 a.m. to 5 p.m., with an optional closure of offices from 12 noon to 1 p.m. for the lunch break. Most offices will close on Saturday and Sunday and recognized holidays, except as needed to meet NMSU operational needs.  Any exception approved by a campus president must be approved by the chancellor.

## Details

**Scope:** NMSU System

**Source:** ARP Administrative Rules and Procedures Chapter 14 | Business Operations

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 06/12/2019

## Related

**Cross-Reference:**

**Revision History:**
06/12/2019 Rule approved by Chancellor

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 14.10 – Records Integrity and Retention

arp.nmsu.edu/14-10

## A. Records Integrity

Because the university business records and reports are of critical importance in meeting financial, legal, and management obligations, they must always be prepared promptly, accurately and truthfully. Those who rely on these records and reports have a right to timely and accurate information. The integrity of university records is based on validity, accuracy, and completeness. All employees involved in creating, processing, recording, and reviewing such information are responsible for ensuring such integrity. Supporting documentation and records for transactions, such as agreements, invoices, request for reimbursement, and time and effort reporting must fairly and fully support the actual purposes and amounts of the transactions. Transactions must be recorded in the proper account. All university assets, liabilities, and components of fund balances will be recorded on the university books, and all accounts will be appropriately approved and maintained according to university policies and procedures.

## B. Records Retention

Statutory or other legal requirements provide that certain records be retained for specific periods of time. Some records and documents may have to be held in connection with regulatory directives or other business purposes; therefore, no records may be destroyed, except in accordance with applicable laws and NMSU policy, rules and procedures. Email communications relating to university business are part of the university's records and shall be retained depending upon the nature of the document, consistent with the retention requirements for that type of document.

## C. Duty to Report Records Integrity Violations

Employees who become aware of the possible omission, falsification, or inaccuracy of information entered into university records, the basic data supporting such entries or any other university record, or who become aware of the improper destruction of records, shall report this knowledge to the Office of Audit Services.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 14 | Business Operations

**Rule Administrator:** Senior VP for Administration and Finance

**Last Updated:** 10/03/2017

## Related

**Cross-Reference:**
**Revision History:**

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 14.15 – College Budget Committee

arp.nmsu.edu/14-15

Each college will establish a standing College Budget Committee. The majority of the members of each College Budget Committee will be elected from that college's faculty. The College Budget Committee will review the college annual operating budget both past and projected and provide input to the dean. In addition, all budget proposals that flow to the university Budget Committee from each college will be reviewed by the Faculty College Budget Committee which will then provide a written recommendation to the dean of the college.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 14 | Business Operations

**Rule Administrator:** College Deans

**Last Updated:** 09/26/2017

## Related

**Cross-Reference:**
**Revision History:**

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 14.56 – Procurement, Generally

arp.nmsu.edu/14-56

The university shall take all steps to assure compliance with the State Purchasing Act of New Mexico and with all federal regulations dealing with the procurement of equipment, supplies, and services. In addition, every attempt will be made to be fair in obtaining bids and information for preparation of bid requirements and bid specifications. The university will attempt not to favor one private firm or individual or person or company over another in obtaining information for preparation of bid specifications. Bids will be awarded to the lowest responsible bidder, giving due consideration to price, quality of product, and time of delivery. The Chancellor is authorized to promulgate and implement regulations pertaining to procurement consistent with the *Procurement Code of the State of New Mexico* which became effective November 1, 1984. In the event of a tie bid between two firms each domiciled and residents of New Mexico, the firm awarded the bid will be determined by the toss of a coin. Each firm will be notified there is a tie bid and of the date and time when there will be a toss of the coin, so that either party, or both parties may be present.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 14 | Business Operations

**Rule Administrator:** Director Procurement Services

**Last Updated:** 10/03/2017

## Related

**Cross-Reference:**
**Revision History:**

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 14.57 – Procurement of Professional Services Contracts

arp.nmsu.edu/14-57

## A. Application

This Rule provides for the procurement of professional services. Professional services covered by the statute are the services of architects, archeologists, engineers, land surveyors, landscape architects, medical arts practitioners, scientists, management and system analysts, certified public accountants, registered public accountants, lawyers, psychologists, planners, researchers, and persons or businesses providing similar services.

## B. Purchases of Professional Services

The university may procure professional services in accordance with professional services procurement regulations promulgated by the Procurement Services Office and approved by the board, or when procuring professional design services, in accordance with the selection procedures approved by the board for certain contracting with or procuring the services of accountants, attorneys, and medical practitioners, and for which there must be prior approval by the executive vice president and provost.

## C. Procurement of Professional Services, Excluding Professional Design Services, Not Exceeding $20,000

Before contracting with any person or firm to provide required professional services, the Procurement Services Office must process a professional service contract or agreement in advance of the services being performed. The process will include confirmation of independent contract status, inquiries for conflict of interest, adherence to employment regulations, and will require the appropriate authorization signatures. The Procurement Services Office shall examine the qualifications of the firm or individual and shall determine if the required services are at a fair and reasonable price. If a fair and reasonable price

cannot be reached, negotiations will be terminated with that source and negotiations begun with the next most qualified source. Procurement requirements shall not be artificially divided so as to constitute a small purchase under this section.

## D. Procurement of Certain Professional Services, Excluding Professional Design Services, in Excess of $20,000

When the Procurement Services Office is procuring professional services whose estimated costs will exceed $20,000 such procurement shall be made using competitive sealed proposals. Such competitive sealed proposals shall be solicited through a Request for Proposals which shall include the specifications for the services to be procured; all contractual terms and conditions applicable to the procurement; and the date, time, and place where such proposals are to be received and reviewed. The Request for Proposals shall state the evaluating factors and the relative weight to be given the factors in evaluating the proposals. Notice of the Request for Proposals shall be published not less than 10 calendar days prior to the date set for receipt of proposals. The notice shall be published at least once in a newspaper of general circulation in the Las Cruces, New Mexico area. Other methods adopted by the Procurement Services Office shall be used to notify prospective offerors that proposals are being solicited, including publication in a trade journal, if available. Request for Proposals shall be sent to those businesses which have indicated an interest in submitting proposals for particular categories of services. Offerors submitting proposals may be afforded an opportunity for discussion and revisions of proposals. Revisions may be permitted after submissions of proposals and prior to award for the purpose of obtaining the best and final offer. Negotiations may be conducted with responsible offerors who submit proposals found to be reasonable and likely to be selected for award. Taking into consideration the evaluation factors, the award shall be made to the responsible offeror whose proposal is determined most advantageous. The award of a professional service contract may be based upon criteria which does not include price.

## E. Procurement of Accountants, Attorneys, and Medical Arts Practitioners

Inasmuch as the selection of accountants, attorneys, and medical arts practitioners involves decisions other than price, including but not limited to knowledge of the university, its staff, faculty, employees, students, personal reputation, rapport with the Board of Regents and administration, and approval by state agencies (such as the state auditor), the selection of such individuals shall be approved by the executive vice president and provost. This approval must be given before the selection is presented to the business office for

processing. Neither proposals nor competitive bids are required for such procurement. The executive vice president and provost shall determine the method of selecting these professionals on a case by case basis. All such individuals so employed shall be subject to termination without cause upon such notice as the executive vice president and provost determines appropriate under the circumstances. A request for proposals shall be required for the selection of an outside auditor if the same auditor is used consecutively for 3 years.

## F. Sole Source Procurements of Professional Service, Excluding Professional Design Services

A professional service contract may be awarded without competitive sealed proposals, regardless of the estimated cost if the Procurement Services Office makes a determination, after conducting a good faith review of available sources and reviewing a written justification submitted by the requiring department, that because of its unique capabilities there is only one source for the required services. Negotiations shall be conducted with the selected source for price and terms in order to obtain the price most advantageous to the university. Research consultants may be considered sole source.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 14 | Business Operations

**Rule Administrator:** Director Procurement Services

**Last Updated:** 10/03/2017

## Related

**Cross-Reference:**
**Revision History:**

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 14.58 – Procurement of Professional Design Services

arp.nmsu.edu/14-58

Professional design services means those professional architectural and engineering services required for the design and construction of a construction project including, but not limited to consultation, investigation, reconnaissance, research, preparation of drawings and specifications, furnishing of cost estimates, general administration of contracts and issuance of a certificate of completion. All procurements of professional design services shall utilize the professional design services selection process which has been approved by the Board of Regents. The Procurement Services Office when preparing the agreement between the university, the board, and the selected design architect, shall include a provision to the effect that all designs, drawings, specifications, notes, and other work developed in the performance of that contract become the sole property of the university.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 14 | Business Operations

**Rule Administrator:** Director Procurement Services

**Last Updated:** 10/03/2017

## Related

**Cross-Reference:**
**Revision History:**

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 14.69 – University Related Travel Guidelines

arp.nmsu.edu/14-69

## PART 1: PURPOSE

This rule provides requirements and restrictions applicable to all domestic and international travel by NMSU students, faculty and staff for university academic and business purposes.

## PART 2: REQUIREMENT FOR ADVANCE APPROVAL

All university related travel must be approved prior to travel by the relevant supervisor or the administrator who is responsible for the source of funding. Departments and units within the university may establish their own procedures and requirements for pre-approval. All required approvals must articulate the university academic or business purpose for the travel. Travel reimbursement may be denied for travel undertaken or travel expenditures incurred without the requisite advance approval(s). In addition, all international travel must be coordinated through the Office of International and Border Programs in accordance with ARP 16.69.

## PART 3: REIMBURSEMENT FOR TRAVEL EXPENSES

To qualify for travel reimbursement, students, faculty and staff undertaking university funded travel must comply with the applicable travel rules, including the requirements for international travel described in ARP 16.69 University Related International Travel. The *NMSU Business Procedures Manual* establishes the amount and types of reimbursements available, the directives and procedures to be followed in requesting travel advances and reimbursements, and other travel related regulations.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 14 | Business Operations

**Rule Administrator:** Senior VP for Administration and Finance

**Last Updated:** 09/12/2017

## Related

**Cross-Reference:**
Business Procedures Manual Section 5C;

ARP 16.69 - University Related International Travel;

ARP 16.70 - Education Abroad

**Revision History:**

2017 Recompilation;

09.12.17 Amendment (also renumbering former Policy 2.69 as Rule 14.69) approved by Chancellor;

10.21.15 Replication of former Policy 2.69.1 as initial Rule 2.69 approved by Board of Regents;

Prior Revision History not available for former Policy 2.69

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 14.92 – Sales and Solicitation

arp.nmsu.edu/14-92

It is the intent of the university to assure that permitted activities occur with the full knowledge and approval of designated university officials in a manner which is applied equally to all eligible parties. Toward this end, the sales and solicitation Rule will be administered through the vice president for student success and enrollment management, with delegation for its enforcement to the director of campus activities. Copies of the Rule may be obtained through the Department of Campus Activities. In the event that the terms of this Rule conflict with other existing policies impacting freedom of expression in areas generally accessible to the public, the terms of the other existing policies shall prevail.

## PART 1: DEFINITIONS

A. **Activity Registration Form**: A form used by the Department of Campus Activities to sanction and plan for special academic and nonacademic events on campus requiring approval by designated campus authorities having involvement with or supervision over the event.
B. **Fund-Raiser**: Any activity which has as its goal financial gain for a cause or an activity to include the Solicitation of contributions or the sale of a product of service conducted by University Departments, agencies, or Student Organizations.
C. **Off-Campus, For-Profit Organizations**: Organizations that have, as their central purpose, the generating of a profit for their owners, partners, or stockholders.
D. **Off-Campus, Nonprofit Organizations**: Public, governmental, and charitable organizations that, while not part of the university, may be permitted in some instances to utilize university facilities or services because of their nonprofit status.
E. **Personal Gain**: An activity which is intended to benefit an individual financially.
F. **Solicitation**: The act of selling or encouraging the purchase of a product either directly or indirectly.
G. **Student Organizations**: Organizations (recognized by the Department of

Campus Activities) whose membership is registered students who meet with the intention of accomplishing specific goals or interests of the members as stated in their by-laws (Hospitality and Tourism Student Association, Hispanic Business Student Association).

H. **University-Affiliate Organizations**: Organizations which are recognized by the university to support its efforts and promote its welfare while operating outside its regular reporting structure (Aggie Athletics Fund, Faculty Women's Club, ASTC, The Symphony Guild).

I. **University Departmen**t: An operating unit of the university which is supported by university funds and reports through the university structure (Electrical and Computer Engineering Department, English Department, Facilities).

## PART 2: SANCTIONS

Failure to adhere to the sales and solicitation or general fund raising Rule may result in sanctions such as withdrawal of Solicitation privileges for the offending individual or organization, removal of the right to conduct future activities on campus, loss of recognition, and/or any other penalties which may apply under university policies or state or federal laws.

## PART 3: ON-CAMPUS SALES AND SOLICITATION BY UNIVERSITY DEPARTMENTS, STAFF, FACULTY, STUDENTS, AND STUDENT ORGANIZATIONS

All sales (except those covered by university contracts or accomplished through the Ticket Office) and/or Solicitations on campus by recognized University Departments, staff, faculty, and Student Organizations for the purpose of selling merchandise or services, or obtaining contributions, are subject to prior approval and authorization. The request for approval shall be signed by an appropriate representative of the group or its supervisor and the cognizant university officials. Such sales and Solicitations shall be in accordance with regulations and policies governing the facilities where the activity will be held and shall be within the general policies of the university contained herein. All funds collected shall be exclusively used to fulfill the purpose of the group earning the funds. Groups utilizing university accounts shall make weekly deposits. (The department head or organization president shall keep appropriate documentation on file should an audit be found necessary, and such documentation shall be made available upon a request from a cognizant university official.) University Departments will also

be governed by university rules and regulations and State of New Mexico Purchasing and Property Disposal Policies and Statues. Affiliated organizations are not considered university organizations for the purpose of this Rule and are not extended privileges for on-campus sales under this section.

A. **Sale of Products:** Sale of products, merchandise, or services normally will not be permitted on campus when in direct competition with an existing university or agency provider, such as the university Bookstore, which either provides or has the jurisdiction to provide the same or similar goods or services. This section shall also apply when the requested activity is in competition with services provided by a business holding a contract with the university to provide goods and services such as for food or vending.
B. **Personal Financial Gain:** Sales and Solicitations by individuals or organizations on university property which result in personal financial gain are expressly prohibited except as noted in this Rule. However, reimbursement for legitimate, direct expenses incurred by organizations or their members for an event are not considered personal financial gain for the purpose of this Rule.
C. **Door-to-Door Solicitation:** No door-to-door Solicitation of any kind shall be permitted by individuals or organizations in university facilities to include residential units. Solicitations may, however, be permitted at approved Solicitation sites at various university facilities in accordance with the policies governing those facilities. This section does not preclude the conduct of official university business requiring contact at an individual's residence.
D. **Electronic Media Solicitation:** The university's resources are provided for official university business and may not be used for Personal Gain by faculty, staff, or students. These resources shall include the university's World Wide Web site and its attached materials, the electronic e-mail system (including Hotline and ABCD), and facsimile equipment. Use of public address systems, message boards, and/or the electronic message display sign in advertising/promoting an event is permitted with proper authorization.
E. **Manner of Solicitation:** Approved Solicitations shall be carried out in a manner which does not:
    1. Unreasonably obstruct vehicular or pedestrian traffic.
    2. Block the entrances or exists to building and facilities.
    3. Erect permanent structure, shelters, or camps.
    4. Unreasonably interfere with classes, university work, and scheduled events.
F. **Distribution of Printed Materials:** Solicitations via distribution of printed materials shall be conducted consistent with the following regulations as

well as other policies governing university facilities.

1. Student Organizations and employees may distribute printed materials on campus as provided in the freedom of expression policy.
2. Printed material may be posted only on interior campus bulletin boards designated for that purpose or in locations designated for that use by the Department of Campus Activities or as designated by the deans or vice presidents in buildings under their control. Approval shall be sought from building monitors in each area prior to posting. A list of building monitors is available through the Office of the Associate Vice President for Facilities and Services.
3. Materials may not be attached to walls, doors, window glass, floors, or any other parts of university buildings or structures, traffic signs, mailboxes, power or light poles, sidewalks, artistic displays, university signs or trees.
4. Printed materials may not be placed on automobiles under any circumstance.
5. The sponsoring group is responsible for timely removal and appropriate disposal of the material at the end of its usefulness or 30 days after posting, whichever comes first.
6. Printed materials to be posted shall be affixed in designated locations in a manner appropriate to the display space (tacks and pins for bulletin boards and masking tape for non-tackable surfaces). Nails, transparent tape, etc., which leave a residue or which damage surfaces, shall not be used, and the group or individual will be held accountable for any damage.

G. **Commercial Sponsorship:** Commercial sponsorship of university - organized events is permitted in certain circumstances when prior approval is secured in a manner noted below. If an event advertisement references a sponsor, it shall feature minimal display of the sponsor's name and, in no case, will the sponsor's name be bigger than that of the event or the organization's name. The sponsor shall provide a sample of the identification to be used. Large banners or posters featuring the sponsor's name are not acceptable.

H. **Sale of Personal Items/Services:** Individual students, faculty, and staff are permitted to advertise the sale of personal items or services (*e.g.*, books, tutoring, typing, babysitting, automobiles, stereo equipment, computers, etc.) only at approved, designated locations and subject to the following:

1. Individuals may not advertise as commercial distributors of products or services (*g.,* Avon, Tupperware, credit cards, magazines, review courses, etc.).
2. Approved locations for posting personal material can be obtained

from building monitors, directors of various facilities, or from the director of campus activities.

3. Individuals in campus residences may advertise and conduct certain businesses in their residences (*g*., child care, résumé typing, etc.) when that business is appropriate to the residence area, has been registered with the Department of Housing and Dining Services, and is not related to a commercial vendor.
4. Yard sales in student family housing may be conducted at individual units provided that Housing and Residential Life is notified in advance. Instruction in the proper methods of conducting sales and assistance in the advertisement of these sales is provided by Housing and Residential Life. Housing and Residential Life reserves the right to limit the number or duration of yard sales should they become disruptive to the neighborhood, excessive in nature, or if it is determined that the sales are being organized for commercial purposes. Yard sales in conjunction with other chartered groups/organizations are permissible upon approval of an Activity Registration Form.
   *(Note: Personal advertising of items for sale in university publications or media such as the student newspaper or the student radio station is allowed.)*

I. **Requests for Permission to Solicit:** Requests to conduct on-campus sales/Solicitations or off-campus fund-raising events/activities by Student Organizations shall be initiated at the Department of Campus Activities by completion of an Activity Registration Form. Requests to conduct on-campus sales and Solicitations by University Departments and/or university employees shall be submitted to the vice president for student success and enrollment management (or designee) in memo form, and shall include project purpose, dates, times, specific activities, and Solicitation methods. Requests to conduct off-campus projects by Student Organizations, University Departments/employees shall be submitted in the appropriate format to the Office of the Vice President for Student Success and Enrollment Management and shall include project purpose, dates, times, budget, methods of Solicitation, and names of solicitor(s). (*See* General Fund Raising Policy) Requests to conduct university events having commercial sponsorship shall be submitted to the director of campus activities and shall include the purpose of the event, dates, times, specific activities, and Solicitation methods.

J. **Sales by University Employees:** The sale of goods and services by employees to the university, or the purchase of same by the university from employees is prohibited. Requests for an exception to this policy

must be initiated through the director of the Procurement Services Office. (*See also* ARP 3.08 – 3.10 and **ARP 6.90 Outside Employment and/or Activities**) university employees desiring permission to use the university's name, reputation, facilities, programs, etc., for the purpose of accruing personal financial gain shall obtain prior written approval from the director of the Procurement Services Office. Existing academic or human resources policies governing such activities shall take precedence over this Rule (*e.g.*, consulting, personal appearances, or authorship for any pay in media areas of TV, radio, or print media, implying university product or service endorsement, etc.).

## PART 4: SALES/SOLICITATION RULE FOR NON-UNIVERSITY ORGANIZATIONS AND INDIVIDUALS

A. Commercial advertising, promotion and/or Solicitation are not permitted on the campus except in the following instances:
    1. Media advertising/Solicitation utilizing campus media outlets, including the *Round Up*, KRUX, campus television, and university publications, etc., is permitted when done in accordance with any policies governing these media and when such advertising is presented in that media's primary format.
    2. The university's electronic media may not be used for commercial Solicitation. These media shall include (but are not limited to) the World Wide Web site and its attached materials, electronic mail (e-mail) system, and facsimile equipment.
    3. Physical properties donated or provided by commercial or governmental entities may display the name, identifying symbol, or features relating to the donor's or the provider's interests, when such displays are consistent with the campus planning regulations and are judged by the executive vice president and provost and the chancellor to benefit the university.
    4. Use of a public address system, message boards, and/or the electronic message display sign in advertising/promoting an event or the location of a business is permitted when authorized by the vice president for student success and enrollment management (or designee).
    5. Distribution of printed commercial advertising materials or similar advertising on the university grounds or in facilities during an event is permitted when the university sponsor or host of the event has received prior written approval for such an activity from the key

administrator of the building used and the cognizant vice president or campus president.

6. In-person Solicitation on campus is permitted when a solicitor receives a personal invitation from an individual to meet on a private basis. Individuals (students or employees) may not extend invitations to solicitors to meet with a group of individuals for the purpose of soliciting without prior written approval. Requests for approval shall be in writing to the director of campus activities, and must follow the Activity Registration Form and process.
7. In-person Solicitation to individuals or select groups of employees by representatives of commercial organizations is permitted when directly related to the official business of the university and its departments (*g*., trade fairs or scientific equipment vendors). Such Solicitation shall be approved by the cognizant department head, dean, and/or vice president.
8. Public sales and Solicitation of products on university property by non-university vendors may be permitted under limited conditions on a private basis when the vendor is sponsored by a recognized campus organization or a University Department; such activity will be directly related to the purposes and goals of the university and pertinent to the sponsoring group (*g*., fraternity and athletic club photographers, etc.) In all such cases, prior written approval must be obtained from the director of campus activities.

B. **Distribution of Informational Material:** Non-university, nonprofit, or noncommercial organizations or individuals are permitted to display informational material within campus buildings upon approval of the cognizant building monitor or building director. This approval shall be subject to the specific policies governing the operation of the particular facility, or group of facilities, and other university policies. Such organizations are not permitted to conduct in-person distribution of materials (handouts) or in-person direct contact with students unless prior approval is received from the director of campus activities (*g*., distribution of Bibles, etc.). Activities by affiliate organizations shall be conducted in compliance with all the regulations contained herein for sales and Solicitation, and shall be reviewed and approved by the University Department to which each is affiliated. These regulations exist to support the organizations and to supplement the efforts of the university (*e*., Aggie Athletics Fund/Athletics Department, Library Associates/Libraries). Distribution or presentation of informational materials in a university facility hosting a particular event (to which the material is directed) may require approval from the event sponsor in addition to that of the

cognizant vice president (or designee). Direct public Solicitation of gifts and/or donations on campus is prohibited except in instances involving approved and scheduled private, organized group activities (*i.e.*, fund-raising banquets, meetings, gatherings with the sole intent of fund raising, and/or political campaign activities).

C. **Food Service Rule for Sales/Solicitations/Acquisition:** The university food service contractors are granted the right to operate/conduct food services on the university campus. Clarification of this right is necessary, however, in view of the many activities conducted on the campus which involve food products, and which may or may not conflict with contractual obligations of the university to the contractors. The following food service rules provide the conditions under which student, staff or faculty activities may involve food and beverage services:
    1. Student groups and University Departments must seek and receive approval for any food events not catered by the university food service providers by completing an Activity Registration Form from the Department of Campus Activities.
    2. No off-campus firm or agency may be contracted to provide or to cater food service to university students, staff, administrative groups, conferences, or visitors in Corbett Center Student Union or other locations on university property where the primary university food services contractor is providing food services.
    3. Non-university vendors providing services in approved locations on campus other than athletic facilities must be pre-certified by the director of housing and residential life, and must rebate to the Office of Housing and Residential Life a commission of seven percent of all sales applicable to the campus event.
    4. Student groups and university units or offices may secure prepared food products from off-campus sources to serve on the campus when all of the following conditions are met:
        a. The products are served exclusively to the members and guests of the sponsoring organization at private gatherings, such as club meetings.
        b. The products are served or sold in a manner or under conditions that are not construed to be in competition with the university food contractors. (The sale is construed to be in competition when the seller is soliciting the same consumer prospects as those sought or being serviced by the university food contractors and offering products similar to those provided by the contractors.)
        c. If food is prepared in the homes of participants and is served

pot luck, it shall be only for the participants and their personal guests and constitute a private gathering where the general public is not invited.

5. Individuals on campus may secure food from those off-campus vendors who provide delivery service (*g*., pizza or other campus delivery products) when done on an individual order basis. Any other delivery policies for individual buildings or facilities shall apply (*g*., a residence hall operational policy).
6. Given health, safety, and liability concerns, raw food may not be secured for preparation and distribution on campus without the appropriate permit from the New Mexico Environment Department. See **env.nm.gov/foodprogram/tfe-application/**

## PART 5: GENERAL FUND-RAISING RULE FOR STUDENT ORGANIZATIONS, UNIVERSITY DEPARTMENTS, AND OTHER AFFILIATED GROUPS

Raising funds from private sources is an important means of supplementing the various programs in teaching, research, extra-curricular, and service activities. The university recognizes and encourages the efforts of campus groups in this regard, but also recognizes the necessity to establish guidelines which aid in coordinating these activities to avoid conflicts, duplication, violation of laws or regulations, or activities which reflect negatively on the university. This Rule applies to fund-raising/Solicitation of individuals and business firms by Student Organizations, departments, and agencies of the university as well as other groups which are affiliates of the university. It does not pertain to proposals for research support addressed to government agencies supporting research that are covered by existing university policies and procedures.

A. Proposals for fund-raising activities from University Departments, agencies, academic classes and other affiliated groups must be submitted in writing to the Office of the Vice President for University Advancement no less than 2 weeks prior to the activity. Proposals shall include the purpose, budget plan, amount sought, prospective donor or donors, and a time schedule for the activity.
B. Fund-raising activity proposals from recognized Student Organizations will be initiated with the director of campus activities by completing an Activity Registration Form.
C. Approved fund-raising activities are to be coordinated through the Office of the Vice President for University Advancement or the Department of

Campus Activities in a manner appropriate to each activity/project and in accordance with Rule guidelines stated herein.

D. Organizations incorporated outside the university which raise funds for a University Department, agency, or unit are requested to confer with the vice president for university Advancement before commencing to fund-raise.
E. Approved activities must comply with all university, city, state, and federal laws, ordinances, and regulations, including taxation; and it shall be the responsibility of the activity sponsor to become aware of applicable requirements.
F. Internal operating policies related to fund-raising events in specific facilities shall have jurisdiction when an event is held in these facilities (*g*., residence halls, Corbett Center, Pan American Center).
G. No member of the sponsoring organization or participant in the activity shall receive personal financial gain from it. Reimbursement of planned, bona fide expenses of the activity (labor or materials), however, shall not be considered as Personal Gain. In no case shall an employee receive payment for personal services (labor) unless prior written approval is obtained from the executive vice president and provost.
H. All funds raised through an activity and deposited in NMSU Foundation, Inc. accounts shall be administered in accordance with policies and procedures of the NMSU Foundation.
I. Fund-raising at university events is not permitted unless specific approval is sought and granted through the director of campus activities in consultation with the vice president for university advancement.
J. On- campus fund-raising involving the sale of merchandise or services must receive the prior approval of the director of campus activities in order to avoid contractual, operational, or jurisdictional conflicts.
K. **Expectations**: It is expected that all fund-raising events held on or off campus will be conducted in a manner which reflects positively on the sponsor and the university. While it is recognized that the type of activities will vary greatly, event sponsors are urged to avoid telephone Solicitation, door-to-door sales or Solicitations, and direct collections at civic or service organization meetings off campus. These methods are often over-used and may be counterproductive. Caution is also advised in the repetitious Solicitation of businesses or prominent citizens for the same reason.

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 14 | Business Operations

**Rule Administrator:** Senior VP for Administration and Finance

**Last Updated:** 04/12/2019

## Related

**Cross-Reference:**
**ARP 3.08 – Requests Made to Subordinates**

**ARP 3.09 – COI: Sales and Solicitations**

**ARP 3.10 – COI: Prohibitions in Procurement**

**ARP 6.90 – Outside Employment or Activities**

**Revision History:**
04/12/2019 Amendment approved by Chancellor
2017 Recompilation, formerly Rule 3.92

© 2017 New Mexico State University - Board of Regents

# Chapter 15 | Information Management and Data Security

## Subsections in Chapter 15

- 15.11 – Acceptable Use of ICT Equipment and Resources
- 15.12 – Computer Accounts
- 15.13 – NMSU Account Purge
- 15.14 – Distribution of Information to NMSU Community
- 15.15 – NMSU Official E-Mail Address
- 15.16 – NMSU Office Software Standards
- 15.17 – Employee Access to Data and Potential Conflict of Interest
- 15.25 – IT Investigation
- 15.50 – NMSU Institutional Data Security
- 15.51 – NMSU Account Password Requirements
- 15.52 – Computer Virus Scan Software
- 15.53 – NMSU Server Administration and Operation
- 15.54 – Computer Operating System Critical Updates
- 15.55 – Payment Card Industry Data Security Standards
- 15.60 – Management of Health Information – HIPAA Compliance
- 15.62 – Protection of Federal Information; FISMA Compliance
- 15.63 – Protection of Customer Information; GLBA Compliance
- 15.64 – Social Security Numbers, Use of
- 15.71 – Acquisition of Software Systems
- 15.72 – NMSU Records Access
- 15.73 – Caller ID
- 15.74 – Bandwidth Management
- 15.75 – Network Connection
- 15.76 – NMSU Wireless Network
- 15.80 – Use of NMSU Logo; University Communications
- 15.81 – Use of NMSU and NMSU-Hosted Personal Websites
- 15.91 – Identity Theft Protection

Go to RPM

ARP Crosswalk

Search for:
Search ...
Search

## ARP Contents

Chapters 1 – 5
Chapters 6 – 10
Chapters 11 – 15
Chapter 16 – 18
Appendices

Filter by Rule Administrator
Select
Submit

## ARP Maintenance

The Administrative Rules and Procedures (ARP) is maintained by **University General**

New Mexico State University
All About Discovery!

# 15.11 – Acceptable Use of ICT Equipment and Resources

arp.nmsu.edu/15-11

## A. Purpose

This Rule defines appropriate and inappropriate use of NMSU-owned and controlled resources, such as electronic devices, software, computer systems and networks that are directly, or through a third party, used to transmit, receive, process or store information or data such as computers, servers, databases, Personal Data Assistants (PDAs), telephones, wireless devices, e-mail systems, voice messaging systems and internet connectivity. Also included is the use of non NMSU-owned electronic resources storing or connecting to NMSU data. In addition, the Rule defines privacy of data, copyright/intellectual property rights to data, and data ownership and access.

## B. Rules

### 1. Ownership and Use

NMSU computing equipment and resources are owned and/or administered by the Board of Regents of New Mexico State University. Access to NMSU equipment and resources is a privilege granted to students and employees to facilitate instruction/learning, research and administration. All users of NMSU computing equipment and resources are required to affirm the following:

*I have read the Acceptable Use Rule, and I understand and agree to abide by the terms of the Rule. I also understand that my use of NMSU equipment and resources must be in accordance with the Rule. I recognize that violations of this Rule may cause restriction or elimination of my access to NMSU computer resources, other disciplinary action, or civil or criminal penalties.*

### 2. User Responsibilities

a. NMSU computing equipment and resources are used to support the mission of the university and may not be used for commercial or profit-making purposes.

b. NMSU computing equipment and resources may only be used by users in ways that do not violate the law or NMSU policies.
c. The willful transmission of known destructive applications and viruses by a user is prohibited.
d. Users whose activities place high loads on the NMSU system must conduct these activities in off hours or in low system demand times.
e. Users are responsible for protecting university data and technologies from unauthorized uses and security threats.
f. Users must be considerate of the rights of other users.

## 3. Copyright Compliance

a. NMSU shall comply with the Copyright Law of 1976 and its amendments (Title 17, United States Code), including the Digital Millennium Copyright Act of 1988. Faculty, staff, and students should be aware that copyright infringements occurring on university networks may result in termination of networking privileges as well as other penalties under federal law.
b. Users must be in compliance with copyright laws and licensing agreements. The University's Office of Information and Communication Technologies may block access to information alleged to be in violation of copyright laws. If a user is found to be in violation of copyright laws, the information found to be in violation shall be deleted from the university's computing system(s). Also, the violator may be subject to other sanctions.

## 4. Misuse of Information and Technology Services

The university reserves the right to sanction a user for the misuse of university information and technology equipment and resources. In addition to other standards specified in NMSU policy or rules and procedures; examples of misuse include, but are not limited to:

a. Intentionally altering, disabling, destroying or stealing electronic resources.
b. Unauthorized access.
c. Use of illegal software or data.
d. The development and/or use of programs which impede the use or the network or cause damage.
e. Attempting to defeat or circumvent any security measures, controls, accounts, or record-keeping systems.
f. Using information and technology equipment and resources for unlawful purposes including fraudulent, defamatory or harassing acts, acts of violence, etc.
g. Invading privacy and confidentiality rights protected under the law.

## 5. Incidental Personal Use of Electronic Resources by Employees

Incidental personal use of electronic university-owned resources is covered in ARP 3.14 Non-Work Related Use of University Resources, which prohibits, in part:

*"...viewing, displaying, downloading, printing, procuring, or transmitting of sexually explicit material; nor of any other material that would violate university policy, rule, procedure, or the law, including but not limited to, those relating to sexual harassment, fraud, hostile workplace, obscenity, libel, defamation, or hate/violent misconduct."*

## 6. Privacy

Notwithstanding users' rights to privacy, and any rights under the Electronic Communication Privacy Act of 1986, FERPA HIPAA and GLBA, users grant specific permission to university to inspect users' accounts and file space for investigation of violation of university policy or rules and procedures or as needed for maintenance functions. When investigating a possible abuse of the system, Information and Communication Technologies has the authority to examine files, passwords, accounting information, printouts, tapes, or other material that may aid in the investigation. Investigations must follow university procedures. Use of university equipment or resources implies consent to this Rule.

## 7. Access – Investigative Purposes

The university reserves the right to access a user's account when there is reasonable suspicion that a law or university policy, rule or procedures have been violated. The following steps for a request to access a user's account include:

a. Requests for access based on a reasonable suspicion must be in writing and approved prior to access being granted by Chancellor/Chancellor, provost, general counsel, human resources, internal audit department or law enforcement.
b. Each request must specify the purpose for which access is being requested.

## 8. Access – Non-Investigative Purposes – Work Related

Access to work-related files is permitted as long as there is a work-related need and the users are, by the nature of their work, approved to access these files. When an employee separates from the university, all work-related files remain the property of the university.

## 9. Sanctions

Use of information technology equipment or resources in violation of applicable laws, university policy, rule or procedures may result in sanctions, which include, but not limited to, the sanctions listed below:

a. Withdrawal of use privileges.
b. Disciplinary action, up to and including, expulsion or discharge from a position.

c. Legal prosecution.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 15 | Information Management and Data Security

**Rule Administrator:** Chief Information Officer

**Last Updated:** 09/26/2017

## Related

**Cross-Reference:**
**Revision History:**

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 15.12 – Computer Accounts

arp.nmsu.edu/15-12

## A. Purpose

This Rule outlines the eligibility requirements associated with the four different types of accounts that ICT provides.

## B. Rule

This Rule requires all active employees, students, and eligible NMSU retirees to have an account managed by ICT. This Rule also requires each department or unit and each chartered organization to be provided one ICT-managed account.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 15 | Information Management and Data Security

**Rule Administrator:** Chief Information Officer

**Last Updated:** 09/26/2017

## Related

**Cross-Reference:**
**Revision History:**

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 15.13 – NMSU Account Purge

arp.nmsu.edu/15-13

## A. Purpose

This Rule outlines the normal account purge process with respect to persons no longer affiliated with NMSU.

## B. Rule

Former employees who have separated from the university but have not retired from the university, and former students without pending financial obligations, must have their NMSU account purged.

1. Once separation from NMSU occurs, the NMSU account shall remain active for one year.
2. After one year, email notifications of the impending purge shall be sent to the NMSU account.
3. Under certain circumstances, at the direction of the Chancellor, provost, senior vice presidents, CIO, or assistant vice president for human resource services, the NMSU account shall be terminated immediately.
4. Data associated with the purged account shall not be retained by the university.
5. NMSU is not responsible for data lost due to an account purge and may not be capable of recovering the data once an NMSU account has been purged.
6. Employee access to institutional data is revoked immediately upon separation.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 15 | Information Management and Data Security

**Rule Administrator:** Chief Information Officer

**Last Updated:** 09/26/2017

## Related

**Cross-Reference:**
**Revision History:**

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 15.14 – Distribution of Information to NMSU Community

arp.nmsu.edu/15-14

## A. Purpose

This Rule identifies the official university mass communication mediums for employees and students of the university.

## B. Rule

All official mass communications shall be transmitted via the university's email system. Official mass communications are memoranda or documents that are distributed to wide audiences, such as departments, colleges or all employees. Directors, supervisors and managers are responsible for insuring that all employees who do not access email regularly are provided this information through postings and distribution of the information in whatever means possible to reach each employee.

## C. ABCD Distribution of Information

Printed memoranda and materials regarding university business may be circulated to groups of individuals on campus by requesting distribution through Printing and Duplicating and Mail Services addressing programs. Designations from the list below — A B C D — may be used. Electronic mail may provide an avenue for communication of significant administrative information to key administrators, with the following guidelines:

### 1. Composition of the List

a. Chancellor, executive vice president and provost, and senior vice presidents/provosts.
b. Associate and assistant vice presidents/provosts, presidents of community colleges, academic deans, associate and assistant deans.
c. Administrative department heads and directors.

d. Academic department heads (main campus only).

### 2. Posting to the List

Only list members or their designees may submit announcements to ABCD. Distributions may be made to A or B or C or D or any combination of these. Posting to the list(s) should be restricted to significant administrative announcements. Other communications, such as announcements of workshops, receptions, etc. might be posted via other communication vehicles managed by the Office of University Communications and Marketing Services.

### 3. ABCD-Copy

Individuals wishing to receive electronic copies of electronically mailed ABCD postings may subscribe to ABCD-Copy. ABCD-Copy subscribers will receive only electronic announcements which are addressed to all four groups: A, B, C, and D.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 15 | Information Management and Data Security

**Rule Administrator:** AVP Marketing and Communication

**Last Updated:** 09/26/2017

## Related

**Cross-Reference:**
**Revision History:**

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 15.15 – NMSU Official E-Mail Address

arp.nmsu.edu/15-15

## PART 1: PURPOSE

This Rule requires that a valid NMSU email address is assigned to each student, faculty and staff member to ensure that e-mail is a viable communication medium at NMSU.

## PART 2: RULE

The official email address for NMSU students, faculty and staff shall be their <NMSU Username>@nmsu.edu. This address shall be populated as the official email address in the electronic records and shall used for official communication. If desired, students, faculty and staff may choose to forward emails from this address to an address of their choosing by changing their email settings. The official e-mail address (ending in @nmsu.edu) for all non-student employees is required to be displayed in the official NMSU phonebook.

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 15 | Information Management and Data Security

**Rule Administrator:** Chief Information Officer

**Last Updated:** Not Available

## Related

**Cross-Reference:**

**Revision History:**
2017 Recompilation, formerly Rule 2.35.1.1.5

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 15.16 – NMSU Office Software Standards

arp.nmsu.edu/15-16

## A. Purpose

This Rule specifies the official standard file formats for electronic documents that are shared between NMSU employees.

## B. Rule

The official standard file formats for electronic documents at NMSU shall be Microsoft Office application file formats: word processing – Word (.doc), spreadsheet – Excel (.xls), electronic presentation – PowerPoint (.ppt), and Adobe Portable Document Format (.pdf). All documents that are distributed for editing, collaboration or communication between employees shall use these file formats

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 15 | Information Management and Data Security

**Rule Administrator:** Chief Information Officer

**Last Updated:** 09/26/2017

## Related

**Cross-Reference:**
**Revision History:**

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 15.17 – Employee Access to Data and Potential Conflict of Interest

arp.nmsu.edu/15-17

## A. Purpose

This Rule specifies the authorization requirements for NMSU employees who have access to the university's central computing systems, and through those systems, access to wide-ranging types of data that creates the potential for conflicts of interest

## B. Rule

In order to mitigate the risk of conflict of interest, any employee who has update/modify capabilities to data, where those capabilities may result in a conflict of interest, must obtain authorization from the appropriate data custodian. The data custodian is authorized to grant employee access based on job responsibility.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 15 | Information Management and Data Security

**Rule Administrator:** Chief Information Officer

**Last Updated:** 09/26/2017

## Related

**Cross-Reference:**
**Revision History:**

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 15.18 – Telephone Equipment Use

arp.nmsu.edu/15-18

## A. Purpose

This Rule specifies the appropriate use of university telephones, pagers, fax machines and telephone credit cards.

## B. Operational Rules

University desk telephones, cell or mobile telephones, pagers, fax machines, and telephone credit cards shall be used for NMSU business purposes: deans, department heads, directors and other administrative officers shall be responsible for the fiscal management of telephone related expenditures.

1. In the event that it is necessary to make a personal long distance call, the call shall be charged to an employee's personal credit card or home phone whenever possible.
2. If a personal long distance call or fax is charged to a university desk phone, fax machine, pager or credit card, the employee shall identify that the call is personal in nature on the monthly statements sent from telecommunication and networking services and shall reimburse the university for such calls. Employees are required to sign monthly certifications stating that all calls not reimbursed are business related.
3. Management shall periodically review personal calls of each employee to verify that the employee reimburses the university.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 15 | Information Management and Data Security

**Rule Administrator:** Chief Information Officer

**Last Updated:** 09/26/2017

## Related

**Cross-Reference:**
**Revision History:**

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 15.25 – IT Investigation

arp.nmsu.edu/15-25

## PART 1: RECOGNITION AND AUTHORIZATION FOR IT INVESTIGATIONS

A. **Definition of IT Investigation**: An IT investigation consists of accessing, duplicating, searching, gathering, organizing and providing data from NMSU computer systems, user accounts and data repositories maintained on NMSU owned or controlled resources in response to a request from an authorized official's request in accordance with this rule.

B. **Authority to Conduct IT Investigations**: This rule recognizes the authority of the Information Security (InfoSec) and Privacy/Compliance departments within NMSU Information and Communications Technologies (ICT), to conduct IT investigations in response to requests from authorized university officials, as their respective positions may require for official university business.

   1. Unless a specific exception applies, all requests for IT investigative assistance and support must be made in accordance with this rule.
   2. The routine gathering of digital data by the university's various NMSU data stewards (e.g. to respond to requests for inspection of public information or to respond to student requests under FERPA) is not considered an "IT Investigation". However, if a data steward requires investigative assistance from ICT, this rule will apply.
   3. Individual departments are not authorized to conduct IT investigations, as defined in this rule.
   4. If an NMSU supervisor or employee believes IT investigation is necessary to support their work, they must coordinate through their dean, vice president or equivalent authority not implicated in the allegations to contact the appropriate authority (See Part 2 C. below) to coordinate such IT investigation.

C. **Types of IT Investigations**: ICT InfoSec and Privacy and Compliance departments regularly respond to official requests to conduct IT Investigation in support of the following three types of authorized university business. If a request does not fall into one of these categories, ICT InfoSec and/or Privacy and Compliance may seek additional clarification and approval from an authorized official before proceeding.
    1. NMSU internal investigations (e.g. personnel, audit);
    2. Legally required external requests for information (e.g. requests for inspection of public records, subpoenas); and
    3. Operational, for continuity or security of NMSU business operations.

D. **Integrity and Performance of IT Investigation**: The CISO's designees within ICT InfoSec and the IT Privacy and Compliance Officer will conduct approved IT investigations. To preserve the integrity of an IT investigation, the maintenance of strict confidence is required by all persons involved in conducting or performing the IT investigation. Violations of confidentiality will be referred to HR and Legal Counsel for resolution.
    1. In the course of conducting IT Investigation, ICT may contract the services of a security vendor.
    2. IT investigators may task investigative duties to other IT staff both internal and external to ICT in order to facilitate the gathering of digital data to meet the requirements of the IT investigation and data protection requirements.
    3. ICT investigators are not required to disclose the purpose of the request for data to individuals tasked with assisting in the data collection or to others required to cooperate with the investigation. IT investigators will provide the identity of the official who authorized the IT investigation to those who seek verification of the official nature of the IT investigation.
    4. All IT investigators are required to follow the data protection requirements mandated by the type of regulated digital data being viewed or collected for an investigation and are not required to inform the data owner or data steward that the data is being accessed.
    5. IT Investigations may indicate or confirm an IT Incident subject to corresponding contractual or reporting requirements; the IT compliance officer will determine the specific reporting requirements and coordinate with appropriate university administrators through the CIO.
    6. Discovery of lawful digital data, violating NMSU policy, but not material to the approved investigation, will be reported to the chief legal affairs officer for review.
    7. If an IT investigation results in the suspicion or discovery of child pornography, the investigator must immediately halt the investigation and contact the NMSU police department.

## PART 2: IT INVESTIGATION SUPPORTING NMSU INTERNAL INVESTIGATIONS

When there is a reasonable suspicion that a law and/or university policy, rule or procedure has been violated (e.g. internal HR or Internal Audit investigation), or when litigation is reasonably anticipated, the university's internal investigative response may involve a request for IT investigation.

A. **Notice to CISO**: A request for IT investigation in support of an internal NMSU investigation must be directed to ICT InfoSec's chief information security officer (CISO).
B. **Notice to Chief Legal Affairs Officer**: Authorizing officials must refer to the chief legal affairs officer requests for investigation pertaining to matters that involve reasonably anticipated litigation.
C. **NMSU Officials Authorized to Request IT Investigation**: The following officials may request an IT investigation relating to an internal NMSU investigation within the scope of their area of responsibility or jurisdiction by submitting a written request to the CISO or designee. The requesting official must provide the constraints relating to the data requested, as well as confidentiality and delivery date requirements, after which ICT will commence the IT Investigation.
    1. Chancellor
    2. Campus Presidents
    3. Executive Vice President and Provost
    4. Chief Legal Affairs Officer and UGC attorneys
    5. AVP HRS
    6. Dean of Students
    7. Director of Office of Institutional Equity
    8. Chief Audit Officer
    9. NMSU Police Chief
    10. IT Compliance Officer

## PART 3: IT INVESTIGATION SUPPORTING EXTERNAL REQUESTS

NMSU receives a variety of external requests for data stored in the university's IT records which may necessitate IT investigation. IT investigation in support of external requests made to the various departments will be initiated after validation of the request, and assignment by the CISO.

A. **Validation of Request:** NMSU Chief Legal Affairs Officer, in consultation with NMSU Police Chief in matters involving outside law enforcement agencies, determines the legitimacy of all external requests involving access or production of records from IT data.

B. **Assignment by CISO**: Valid external requests for IT investigation must be directed to ICT InfoSec's Chief Information Security Officer (CISO) for review and assignment to a designee within ICT InfoSec or Privacy and Compliance designee.

## PART 4: IT INVESTIGATION FOR NMSU BUSINESS CONTINUITY AND SECURITY

Information Technology staff throughout the NMSU system perform routine operational functions which relate to business continuity and security and which are subject to this rule.

A. **Initiation of IT Investigation**: Operational IT investigations are initiated by IT staff, without the need for other authorization, but must be based on a reported or observed system failure, error, or performance anomaly or reasonable suspicion of a data breach, data loss, other compliance violation or possible harm to the institution exists, any of which would constitute an IT Incident.
B. **Notification to NMSU CIO, CISO or IT Compliance Officer**: IT staff must promptly notify the NMSU chief information officer (CIO), CISO or IT compliance officer when:
    1. an operational IT investigation determines that an IT Incident may have occurred,
    2. an employee, student or affiliate becomes the focus of the investigation, or
    3. it is suspected that a crime has been committed.

## Details

**Scope:** NMSU System

**Source:** ARP Administrative Rules and Procedures Chapter 15 | Information Management and Data Security

**Rule Administrator:** Chief Information Officer

**Last Updated:** 08/13/2019

## Related

**Cross-Reference:**

**Revision History:**
08/13/2019 Rule adopted by Chancellor

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 15.50 – NMSU Institutional Data Security

arp.nmsu.edu/15-50

## PART 1: PURPOSE

This Rule provides for the secure management of NMSU institutional data.

## PART 2: RULE

A. **Definition of Institutional Data:** Institutional data is defined as all information, documents and other data, regardless of physical form or location that is used, created, received, maintained or held by or on behalf of NMSU in the course of university business.

B. **Authorized Access to Institutional Data:** Access to, distribution and/or any other use of institutional data is based on an employee's position and duties. Such access shall be granted and monitored through the employee's supervisor by the appropriate records custodian and the appropriate vice president, dean or director. All employees shall comply with applicable federal and state laws, including FERPA, GLBA, and HIPAA, as well as with applicable university policies relating to the secure access, maintenance, distribution, storage or other use of institutional data. (*See also*ARP 15.60 – 15.64)

   1. Transmission of university data to other persons or entities affiliated with NMSU, such as third party vendors, must have prior approval by the appropriate vice president/dean/director and the appropriate records custodian.
   2. Employees shall not transfer their authority for access to institutional data to any person.
   3. Employees with access to institutional data shall not access, distribute or otherwise use such information for any purpose other than those required to perform their job duties. (*See* **RPM 18.55 Inspection of Public Records** for distinct procedures available to request public institutional information in one's personal capacity.)

## PART 3: NON-DISCLOSURE NOTIFICATION FORM

All employees authorized to access NMSU central computer systems, including but not limited to Banner and COGNOS, shall be given and shall sign a Non-Disclosure of Sensitive/Confidential Information Employee Notification form. A copy of this form is available at **Administration Non Disclosure**. The lack of a signed Non-Disclosure form shall not relieve the employee of the responsibility to comply with applicable state and federal law and NMSU policies relating to the secure access, maintenance, distribution, storage or other use of institutional data. Employees with access to institutional data shall not access, distribute or otherwise use such information for any purpose other than those required to perform their job duties. (*See* ARP 15.60 – 15.64) Distinct procedures are available to request public institutional information in one's personal capacity. (*See* **ARP 18.40 – Inspection of Public Records**)

## PART 4: INFORMATION STORED ON DESKTOP COMPUTERS AND PORTABLE COMPUTING DEVICES

Users with access to institutional data shall maintain reasonable measures to ensure the security of the data. **The following requirements must be observed**:

A. Institutional data shall only be stored on university-owned computers or on computers owned by contractors to the university.
B. Institutional data must be removed from computing devices when the data is no longer required.
C. Regular backups shall be performed on computing devices that store university data.
D. Institutional data should be encrypted on computing devices that store university data.
E. Institutional data shall not be stored on removable media unless approved by the appropriate data custodian.

## PART 5: INFORMATION SECURITY ON DESKTOP AND PORTABLE COMPUTING DEVICES

All desktop computers and portable computing devices that hold institutional data, including university-owned devices used at home, shall:

A. Have automatic updates enabled to the operating system and virus protection as appropriate.
B. Require a password for access when started or rebooted.
C. Use a password-protected screen saver that locks access when unattended.
D. Not run file sharing software, in particular software that allows the sharing of music and videos.

## PART 6: INFORMATION SECURITY ON SERVERS

All servers on which university-owned data are maintained shall follow existing university policy and administrative rules and procedures. **Servers shall also**:

A. Have automatic updates enabled.
B. Have a trained, full-time employee assigned as the primary system administrator of the server. Students and temporary staff shall not be the primary contact for the server.
C. Reside on a physically separate subnet than that of desktop computers.
D. Have all unnecessary services turned off and/or removed from the server.
E. Have backups of data, operating system and applications performed regularly. The backup media should be stored offsite in a secure storage area.
F. Have a firewall enabled.
G. Not be used as a desktop or personal computer.
H. Use a web browser only for the download/update of software.

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 15 | Information Management and Data Security

**Rule Administrator:** Chief Information Security Officer

**Last Updated:** 07/29/2009

## Related

**Cross-Reference:**
**RPM 18.55 – Inspection of Public Records**

**ARP 15.60 – Management of Health Information – HIPAA Compliance**

**ARP 15.62 – Protection of Federal Information; FISMA Compliance**

**ARP 15.63 – Protection of Customer Information; GLBA Compliance**

**ARP 15.64 – Social Security Numbers, Use of**

**ARP 18.40 – Inspection of Public Records**

**Revision History:**
2017 Recompilation, formerly Rule 2.35.1.2.3
07/29/2009 Amendment ratified by Board of Regents
07/14/2009 Amendment approved by Administrative Council

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 15.51 – NMSU Account Password Requirements

arp.nmsu.edu/15-51

## PART 1: PURPOSE

To protect the integrity of NMSU IT resources and data, account passwords must be utilized which comply with NMSU IT standards. This rule specifies the general requirements, and links to the more specific standards required, based on the level of authorized access per user. Users of any NMSU-authorized account which accesses NMSU IT resources and data are subject to this rule.

## PART 2: PASSWORD REQUIREMENTS

Each account user is required to adhere to the password standards set forth in this rule. Most password standards fall into two categories: 1) General user account password requirements and 2) Privileged user account requirements. Password standards are established based on legal requirements and IT security best practices, differentiated by the type of data or IT resource the account is authorized to access. Generally, a password is most secure the longer it is and the easier it is to remember. NMSU encourages the use of a passphrase for account passwords.

The specific password standards required of each NMSU account user is linked here:

1. General User Account Password Standard
2. Privileged User Account Password Standard

## PART 3: DUTY TO MAINTAIN CONFIDENTIALITY AND TO REPORT SECURITY CONCERNS

A. **Confidentiality of Password**: Assignment of an NMSU account, typically required to perform one's job, grants access to NMSU IT resources and data, potentially including access to NMSU Affiliate data or confidential proprietary data. Each user is responsible to protect this access. *Never share your account password with any other*

*person, including a supervisor. NMSU will never ask you for your password via an unsolicited email, phone call, screen pop-up or in-person request.*

B. **Phishing Awareness**: NMSU accounts are most commonly compromised when a user responds to an Email phishing scam. *Never click a link in an unsolicited email, without first verifying the authenticity of the link.*

C. **Report Potential Computer Security Issues**: Account owners should immediately report a possible password compromise to the NMSU helpdesk or abuse@nmsu.edu and set a *new* password on the account.

D. **Requirement to abide by Password Standards**: The account password standards by type of user are linked to this rule above and provide additional information, including minimum requirements for a secure password and consequences for non-compliance. These standards are incorporated into this rule by reference and users must review and abide such standards. ICT is authorized to update and amend the standards, provided they remain posted and notice is given to the university community each time they are changed.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 15 | Information Management and Data Security

**Rule Administrator:** Chief Information Security Officer

**Last Updated:** 05/08/2018

## Related

**Cross-Reference:**
**Revision History:**

05/08/18 Amendment approved by Chancellor

2017 Recompilation, formerly Rule 2.35.1.2.1

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 15.52 – Computer Virus Scan Software

arp.nmsu.edu/15-52

## A. Purpose

To specify the requirements for virus scan software installed on NMSU network-connected desktop/laptop computers and other portable computing devices.

## B. Rule

Any desktop/laptop computer or other portable computing device connected to NMSU network infrastructure shall have operational antivirus software installed and updated as appropriate. Where appropriate, servers using network infrastructure should have operational antivirus software installed and updated. Computers failing to comply with this Rule shall be subject to the loss of network privileges. *See* Network Disconnection Rule and Security Tips at ICT Security.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 15 | Information Management and Data Security

**Rule Administrator:** Chief Information Security Officer

**Last Updated:** 09/29/2017

## Related

**Cross-Reference:**
**Revision History:**

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 15.53 – NMSU Server Administration and Operation

arp.nmsu.edu/15-53

## A. Purpose

This Rule addresses servers connected to the NMSU network. It specifies who is eligible for accounts, security maintenance requirements and the Rule for reporting server break-ins.

## B. Rule

Account eligibility and account maintenance: Account maintenance shall be in accordance with university policies and procedures. In general, computer accounts are limited to NMSU faculty, staff, and students. Other accounts used to facilitate official NMSU efforts are permitted and shall be limited to those services needed to assist the institution. Accounts should not be provided to family, friends, or other non-NMSU affiliates.

Access to the server should be limited to those computers (clients) that need access to the available services on the server. The server system administrator shall make efforts to restrict other access. Unused services shall be removed from the machine. The sharing of disk drives shall be limited to those clients who require access. Those sharing the disk are required to ensure the disk is password protected and does not violate copyright laws by exporting vendor software.

## C. Security

Employees responsible for any computer classified as a server shall make every effort to ensure that the server is not compromised by internal and external malicious activity by:

1. Regularly updating the server operating system as updates become available.
2. Updating the server with all known security patches.
3. Regularly performing account audits.
4. Regularly performing access control reviews.
5. Regularly performing a review of services provided by the server.

The server system-administrator is responsible for reporting any security-related incident to the ICT chief security officer.

The department that owns the server is responsible for 1) performing any audits required by information and communication technologies, NMSU, or other legal authorities and 2) bearing the costs of server administration tasks.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 15 | Information Management and Data Security

**Rule Administrator:** Chief Information Security Officer

**Last Updated:** 09/29/2017

## Related

**Cross-Reference:**
**Revision History:**

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 15.54 – Computer Operating System Critical Updates

arp.nmsu.edu/15-54

## A. Purpose

This Rule details the requirements for critical updates to university network-connected computers.

## B. Rule

All computers using NMSU network infrastructure are required to have all applicable critical updates applied within 10 days of their release. It is the responsibility of the computer owner to ensure that all critical updates are applied to the computer's operating system except when the update and the applications that reside on the server are in conflict. Also see security tips at: Security Tips.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 15 | Information Management and Data Security

**Rule Administrator:** Chief Information Security Officer

**Last Updated:** 09/29/2017

## Related

**Cross-Reference:**
**Revision History:**

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 15.55 – Payment Card Industry Data Security Standards

arp.nmsu.edu/15-55

## PART 1: INTRODUCTION

This Rule facilitates the protection of payment cardholder data and the compliance with **RPM 15.50 Information Data Security** and with applicable data security standards set forth by the payment card industry. Because many NMSU entities accept payment card payments, the university is a payment card-processing merchant, and as such, must comply with the Payment Card Industry Data Security Standard (PCI DSS). The following details the requirements for compliance with PCI DSS.

## PART 2: SCOPE

The PCI DSS Rule applies to all NMSU entities, individuals, and contractors to NMSU who:

A. Accept payment card payments at NMSU;
B. Oversee the technology used to accept payment card payments;
C. Have oversight over payment card transactions, or;
D. Are responsible for training personnel who accept payment card payments.

## PART 3: COMPLIANCE, OVERSIGHT AND ADMINISTRATION

The NMSU PCI DSS Compliance Steering Committee (The Committee) oversees and administers NMSU's PCI DSS compliance efforts. The Committee shall work with the various merchants and other parties to ensure compliance with the applicable regulations relating to the security of payment cardholder information. For more information, visit pcidss.nmsu.edu or email the Committee at pci-Team @nmsu.edu.

# PART 4: DEFINITIONS

A. **Data/Process Flow**: "Data/process flow" refers to a graphical representation of how payment card data flows through a logical and/or physical system.
B. **Merchants**: "Merchants" are any NMSU entities or contractors to NMSU that accept, process, or store payment card data.
C. **Payment Card**: "Payment card" refers to a credit or debit card used to purchase goods or services.
D. **Payment Card Activities**: "Payment card activities" refers to the acceptance, processing, storing, or transmission of cardholder data.
E. **Payment Cardholder Data**: "Payment Cardholder Data" refers to the PAN in conjunction with any of the following: cardholder name, payment card expiration date, or payment card service code (three/four-digit security code).
F. **PCI DSS**: "PCI DSS" refers to the Payment Card Industry Data Security Standards, which are the proprietary security standards mandated by the major card companies, including Visa, MasterCard, American Express, Discover, and JCB.
G. **Point of Sale (POS)**: "Point of Sale" refers to the place where a sales transaction is completed.
H. **Primary Account Number (PAN)**: "PAN" is the payment card number (credit or debit) that identifies the issuer and the particular cardholder account (a.k.a. Account Number).

# PART 5: GENERAL REQUIREMENTS, MERCHANT REQUIREMENTS, AND GOVERNANCE

## A. General Requirements

Appropriate security and control measures must be in place to ensure the security of payment cardholder data. The following chart outlines the PCI DSS goals and requirements for the security of payment cardholder data. For more information, visit pcidss.nmsu.edu for specific procedures.

| Goals | PCI DSS Requirements |
|---|---|
| Build and Maintain a Secure Network and Systems | 1. Install and maintain a firewall configuration to protect cardholder data<br>2. Do not use vendor-supplied defaults for system passwords and other security parameters |

| Goals | PCI DSS Requirements |
|---|---|
| Protect Cardholder Data | 3. Protect stored cardholder data<br>4. Encrypt transmission of cardholder data across open, public networks |
| Maintain a Vulnerability Management Program | 5. Protect all systems against malware and regularly update anti-virus software or programs<br>6. Develop and maintain secure systems and applications |
| Implement Strong Access Control Measures | 7. Restrict access to cardholder data by business need-to-know<br>8. Identify and authenticate access to system components<br>9. Restrict physical access to cardholder data |
| Regularly Monitor and Test Networks | 10. Track and monitor all access to network resources and cardholder data<br>11. Regularly test security systems and processes |
| Maintain an Information Security Policy | 12. Maintain a policy that addresses information security for all personnel |

## B. Merchant Requirements

NMSU merchant responsibilities include network, data and physical-access security, merchant training, compliance reviews, and reporting. A list of current and specific duties and responsibilities of merchants, which are amended by the Payment Card Industry periodically, can be found at pcisecuritystandards.org. The following are the general requirements for merchants:

1. Only merchants and vendors pre-approved by the Controller's Office and the Committee are authorized to handle university credit card processing. Third-party vendors or service providers contracted by a merchant must supply a contract addendum or other certification assuring their compliance with the current PCI DSS as appropriate. If applicable, a list of service providers must be maintained by the department or unit contacts, as well as the compliance status of each vendor, must be verified by the department or unit at least annually.
2. Any post-authorization storage of cardholder data must have prior approval by the Controller's Office and The Committee and must meet current PCI DSS. A current inventory must be provided to the Controller's Office and The Committee, reflecting any storage locations for cardholder data.

3. Merchant shall engage approved software and hardware vendors and obtain approval from The Committee before maintaining and/or retrieving payment cardholder data for future or recurring transactions or accepting payment cardholder data over the internet.
4. Merchant shall designate personnel to document cardholder activities, develop procedures, coordinate training, and act as primary contact in regards to cardholder data before the merchant can accept, process, or store cardholder data.
5. Merchant shall immediately notify Treasury Services, ICT, and The Committee of any breach involving payment cardholder data and document and cooperate with the investigation as directed.
6. Departments and units which operate payment card systems must maintain documentation of all procedures, including data/process flows, for handling payment card data and systems consistent with PCI DSS. Documentation required of PCI DSS and this Rule must be readily available during business hours at the request of the Controller's Office or The Committee.
7. Departments and units which operate payment card systems must maintain a list of current devices and software used to process credit card data or used in the cardholder environment and monitor devices for attempted tampering or replacement. Each device must be labeled appropriately. The list must be supplied to the Committee annually. **The inventory list must include**:
    a. Make and model of devices;
    b. Location of each device;
    c. Device serial number or asset tag, and;
    d. Software and software version.
8. Each department or unit must complete a PCI DSS Self-Assessment Questionnaire (SAQ) for each merchant ID, along with the corresponding Attestation of PCI Compliance prior to operation of any payment card processing system, and on an annual basis at a time communicated from the Controller's Office or The Committee with at least 30-day notice,

## C. PCI DSS Governance

The following are the official governance authorities responsible for ensuring the university maintains compliance with PCI DSS requirements:

1. The NMSU PCI DSS Compliance Steering Committee (the Committee) will require that all university merchant processes meet PCI DSS requirements, and;
2. The Committee will review the implementation, operation and certification of merchant processes in order to manage risk, complexity, and expense of maintaining compliance with PCI DSS.
3. **The Committee shall**:

a. Create or procure, distribute, and review for relevance and value, training courseware and materials for NMSU merchant departments;
b. Review with Information and Communication Technologies (ICT) personnel new cardholder technologies in use at NMSU and emerging in the industry;
c. Conduct bi-annual review of Payment Card Industry DSS compliance rules and procedures with ICT and Treasury Services;
d. Conduct periodic visits to merchant business sites for merchant site and procedural reviews, and;
e. Review each merchant department's payment card procedures to assure PCI DSS compliance.

4. **Treasury Services shall**:
   a. Through the Controller's office, be the final approver for all merchant payment card processing applications and merchant processing locations;
   b. Review monthly third party scans of computers used by departments for merchant payment card processing and notify ICT and The Committee of any failures for ICT follow-up;
   c. Coordinate annual merchant SAQ completion;
   d. Review each merchant department's yearly training logs;
   e. Oversee new payment card merchant account requests, and;
   f. Coordinate corrective action and reporting with relevant merchant departments, Administration and Finance, University Communications, and ICT, upon discovery of a cardholder data breach.
5. **Information and Communication Technologies shall**:
   a. Maintain availability and security of central servers, networks, and associated hardware that process or transmit cardholder data;
   b. Verify that all controls, such as firewalls and encryption technologies are in place, up-to-date and functioning;
   c. Ensure network penetration testing takes place as required by PCI DSS;
   d. Take corrective action on failures identified in monthly third-party scans;
   e. Maintain logs for required periods as appropriate for certain hardware equipment;
   f. Recommend technical solutions to enhance compliance and security, and;
   g. Provide technical expertise to merchant departments in support of payment card activities.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 15 | Information Management and Data Security

**Rule Administrator:** Senior VP for Administration and Finance

**Last Updated:** 09/29/2017

## Related

**Cross-Reference:**
pcidss.nmsu.edu

**Revision History:**

01.10.17 Amendment recommended by University Administrative Council; approved by Chancellor. 10.21.15 BOR approved replica of Policy 2.36 as initial Rule 2.36. ***Prior Revision History as Policy 2.36:*** *12.13.11 adoption of new policy recommended by Administrative Council; 01.30.12 Policy adopted by Board of Regents.*

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 15.60 – Management of Health Information – HIPAA Compliance

arp.nmsu.edu/15-60

## PART 1: INTRODUCTION

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the regulations promulgated thereunder cover health plans, health care clearinghouses and health care providers who conduct certain financial and administrative transactions electronically. In New Mexico, all information contained in an individual's medical record is confidential and cannot be disclosed without consent of the individual, except in certain circumstances. (NMSA 1978 § 24-14-26 and §24-14-27). As directed by **RPM 15.50 Information Data Security**, New Mexico State University ("university" or "NMSU") adopts this rule for the protection of the privacy relating to health information of university students, employees and their dependents, in compliance with HIPAA and applicable regulations, as well as applicable related state law.

## PART 2: DEFINITIONS

A. **Covered Component**: Covered Components are the categories corresponding to HIPAA's covered entity designations, by which the NMSU entities are designated to require compliance with HIPAA. (***See Part 3***)
B. **Health Information**: Health Information includes anything in any form or medium created or received by a health care provider, health plan, public health authority, employer, life insurer, school or university, or health care clearing house that relates to the past, present or future physical or mental health or condition of an individual; or the past, present or future payment for the provision of health care to an individual.
C. **HIPAA**: HIPAA is the Health Insurance Portability and Accountability Act of 1996, which mandates significant change in the laws and regulations governing the provision of health benefits, the delivery and payment of health care services and the security and confidentiality of Individually Identifiable and Protected Health Information. As used in this Rule, HIPAA will also include the regulations promulgated under the authority of the Act.

D. **HIPAA Privacy Officer (HPO)**: The HPO is the individual responsible for the development and implementation of HIPAA policies and procedures for NMSU and who is the primary contact for receiving complaints and is able to provide further information about matters covered by the Notices of Privacy Practices.

E. **HIPAA Security Officer (HSO)**: The HSO is the individual responsible for the development and implementation of the policies and procedures required by the HIPAA Security Rules for NMSU.

F. **Hybrid Entity**: A Hybrid Entity is a single legal entity that has some units performing functions that meet the definition of a covered entity under HIPAA (Covered Component under this Rule), and others that do not.

G. **Individually Identifiable Health Information**: Individually Identifiable Health Information is information in any form or medium that identifies or reasonably can be used to identify the individual and relates to the: past, present or future physical or mental health or condition of an individual; provision of healthcare to the individual; or past, present or future payment for the provision of health care.

H. **Notice(s) of Privacy Practices**: Notice(s) of Privacy Practices refers to the document that specifies how a covered health care provider or covered health plan uses and discloses Protected Health Information and the rights of individuals related to this information.

I. **NMSU Entity**: NMSU Entity, sometimes also referred to as "unit", is a general term which may refer to a college, a department or any other individual administrative unit within the NMSU System, including but not limited to agricultural experiment stations. Private not-for-profit corporate entities recognized to be affiliated with NMSU for fundraising, research, public service, or student activity purposes, while subject to certain NMSU policies and procedures to maintain recognized status, are not considered "NMSU entities", and if located on NMSU premises, are referred to as "External Entities"

J. **Protected Health Information (PHI)**: Protected Health Information (PHI) is Individually Identifiable Health Information in any form or medium maintained or transmitted by an NMSU entity within one of the Covered Components. PHI includes: (1) demographic information collected from an individual; (2) medical history; (3) information relating to the past, present or future physical or mental health or condition of an individual that is identifiable; (4) the provision of health care to an individual or the payment for the provision of health care; (5) results of physical examinations, blood tests, x-rays; and (6) results of other diagnostic and medical procedures. PHI excludes "de-identified information," defined as health information that does not identify an individual and with respect to which there is not reasonable basis to believe that the information can be used to identify an individual.

K. **Research**: Research as used in this Rule is a systematic investigation, including research development, testing, and evaluation, designed to develop or contribute to generalizable knowledge. See 45 CFR 164.501. Please note, an NMSU entity within

one of the Covered Components may always use or disclose for research purposes health information which has been de-identified (in accordance with 45 CFR 164.502 (d), and 164.514(a)-(c) of the Rule).

# PART 3: HIPAA HYBRID ENTITY DESIGNATION AND NMSU COVERED COMPONENTS

## A. Designation as Hybrid Entity

Some of the university's educational and business activities are covered under HIPAA law and regulations, and most are not. NMSU hereby designates itself as a hybrid entity.

## B. NMSU Covered Components

NMSU has three Covered Components: 1) the Health Care Provider component, which contains departments that provide health-related services, 2) the Health Plan component, which includes certain plans within the university that are determined to be covered by the HIPAA law and regulations, and 3) the Administrative Support Component, which performs support functions on behalf of the Health Care Providers and Health Plan components. The NMSU Covered Components recognized at the time of adoption of this Rule are as follows:

1. **Health Care Provider Component:**
    a. Campus Health Center
    b. Counseling Center
    c. Social Work Services
    d. Sports Medicine/Athletic Training Center
    e. Speech and Hearing Center
    f. Emergency Medical Response (Police and Fire)
    g. Counseling and Educational Psychology (CEP) Center
    h. Family Resource Center (unit of ACES)
    i. Student Accessibility Services
    j. Student Clinics (Main, DACC, or branch campuses) Dental, Nursing, EMS, Allied Health, etc.
2. **Health Plan Component:**
    a. NMSU Benefits Office
    b. International Programs Student Health Insurance
3. **Administrative Support Component:** Administrative Support Units are only subject to HIPAA to the extent that they perform support functions of behalf of the Health Care Providers and Health Plan components and must access protected health information in performing those functions.
    a. Information Technology Services

b. Accounts Receivable
c. Internal Audit
d. Office of General Counsel
e. Office of Institutional Equity
f. Purchasing and Risk Management
g. Environmental Health and Safety
h. University Research

**C.** In the event that an NMSU employee or office not identified as a NMSU Covered Component above has a need to access protected health information, for the duration of a project or longer, the responsible administrator for the unit must contact the HIPAA Privacy Officer for guidance to ensure compliance with this Rule and with HIPAA.

## PART 4: PRIVACY NOTICES AND CONSENT

Each health care provider component will distribute Notices of Privacy Practices to participants in health care services and participants in research provided or conducted by NMSU. The privacy notices will include a consent to participate in the health care services or research.

## PART 5: DESIGNATION AND DUTIES OF HIPAA PRIVACY AND HIPAA SECURITY OFFICER

As required by HIPAA, NMSU designates the IT Compliance Officer as the HIPAA Privacy Officer (HPO) and the Chief Information Security Officer as the HIPAA Security Officer (HPO) (collectively referred to as the HIPAA Officers). These positions may perform other tasks and duties on behalf of the university, but must have the duties and responsibilities designated to ensure compliance with HIPAA as part of their job descriptions. The HPO and HSO will be responsible for facilitating compliance with this Rule by developing, implementing and maintaining a university system wide HIPAA Compliance Program. To ensure comprehensive coverage of the program, the HIPAA Officers should collaborate and coordinate efforts with the University's Compliance Oversight Committee as well as with other relevant university departments. The HPO and HSO may also create and maintain a website dedicated to providing HIPAA compliance related training and other resources and guidance for the university community.

### A. HIPAA Privacy Officer (HPO)

The HPO will have sufficient authority and resources to fulfill the duties determined to ensure compliance with HIPAA and be responsible for privacy matters related to HIPAA. (Privacy §164.530(a) – Personnel designations) The HPO's responsibilities will include, but are not limited to, the following:

1. Develop and implement HIPAA privacy forms and operational policies;
2. Receive, investigate and appropriately handle privacy complaints;
3. Coordinate privacy and security efforts across the university system to ensure adequate development of the HIPAA Compliance Program;
4. Monitor, report and initiate changes to university policies and procedures in relation to local, state and federal statutes, regulations and ordinances that may affect the HIPAA Compliance Program;
5. Coordinate delivery of related HIPAA privacy and security training and ensure compliance for training determined to be mandatory for employees of the university;
6. Investigate and respond to HIPAA related complaints and incidents in accordance with the established policies and procedures related to HIPAA security and privacy;
7. Provide guidance and support to units and programs that have components that must comply with HIPAA.
8. Conduct periodic HIPAA privacy compliance reviews; and
9. Provide annual or regular reports to the university's Compliance Oversight Committee related to HIPAA violations and remedies.

### B. HIPAA Security Officer

(The HPO will have sufficient authority and resources to fulfill the duties determined to ensure compliance with HIPAA and be responsible for security matters related to HIPAA. (Security §164.308(a)(2) – Assigned Security Responsibility) The HSO's responsibilities will include, but are not limited to, the following:

1. Develop and implement HIPAA information security forms and operational policies;
2. Coordinate with each component unit regarding HIPAA privacy and security compliance efforts;
3. Ensure each component unit develops internal operating guidelines relating to appropriate handling and safeguarding of HIPAA data;
4. Ensure component units operate in a HIPAA compliant manner and perform regular risk assessments relating to the adequate protection of protected health information;
5. Ensure component unit staff are provided with regular HIPAA training;
6. Retain required documentation that demonstrates the university's compliance with the HIPAA law and regulations; and
7. Conduct periodic HIPAA security compliance reviews.

## PART 6: RESEARCH COMPLIANCE

A. Investigators who wish to use PHI for research purposes must obtain a signed authorization from each participant. Institutions are required to establish a "Privacy Board" to review and approve requests for waivers of authorization for use and disclosure of PHI for research purposes. At NMSU, the Office of Institutional Compliance's Institutional Review Board (IRB) serves as the Privacy Board.
B. All research involving PHI must be reviewed and approved by the IRB, including disclosure of research data involving PHI. The IRB will ensure researchers comply with the requirements of this rule and its procedural guidelines. Pursuant to federal law, all institutions governed by HIPAA must train their employees regarding PHI. NMSU provides online training for new employees and annual training updates for existing employees.
C. NMSU employees involved in human subject research must complete IRB training through the Collaborative Institutional Training Initiative (CITI). CITI is a web-based training package on issues relating to human subjects research. The CITI module "Research and HIPAA Privacy Protections" is required for IRB training, but it does not replace any other HIPAA training required by NMSU.

## PART 7: DATA BREACH NOTIFICATION, REPORTING AND HANDLING

A. The HIPAA Breach Notification Rule, 45 CFR §§ 164.400-414, requires HIPAA covered entities, including those within Hybrid Entities, to provide notification following a breach of unsecured protected health information.
B. All NMSU employees, students or other affiliates upon becoming aware of a potential data breach/compromise relating to health information, must report such incidents to a HIPAA Officer. The HIPAA Officers are responsible to ensure proper handling, investigation, documentation and reporting to ensure overall HIPAA compliance. The Officers will ensure at minimum proper:
    1. Communication to NMSU senior officials regarding actual data compromises and breaches;
    2. Investigation, documentation and handling of incidents in collaboration with the Offices of University General Counsel, Human Resource Services and other university departments as appropriate;
    3. Submission of notices of actual data breaches to the U. S. Secretary of Human Health Services (HHS) Secretary as required by HIPAA (e.g. data breaches affecting 500 or more individuals require notification of the media per HHS guidelines; breaches affecting fewer than 500 individuals requires notification to HHS);

4. Notification to affected individuals in collaboration with University Communications; and
5. Retention of appropriate documentation for each data breach/incident.

## PART 8: HIPAA TRAINING

A. HIPAA requires NMSU to train all workforce members with access to health information about the University HIPAA administrative policies, rules and procedures. The NMSU entities within the above listed Covered Components must provide comprehensive training to staff regarding their respective operational privacy policies and procedures required to carry out their functions in compliance with HIPAA law and regulations. Each covered NMSU entity must ensure the appropriate training is received by all staff, including new and existing employees, volunteers, trainees or others whose conduct is under the control of the entity. Follow-up training is expected to occur annually.

B. To ensure compliance with the HIPAA training requirement, all NMSU employees will be required to take annual HIPAA compliance training, which may be offered pursuant to **ARP 6.89 Mandatory Employee Training and Other Professional Development Opportunities**. Official training logs and certificates will be kept in the SABA training system maintained by Human Resource Services, Center for Training and Professional Development.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 15 | Information Management and Data Security

**Rule Administrator:** Executive Director Health and Wellness

**Last Updated:** 11/09/2017

## Related

**Cross-Reference:**
**Revision History:**

04.11.17 Rule recommended by University Administrative Council; 04.11.17 approved by Chancellor.

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 15.62 – Protection of Federal Information; FISMA Compliance

arp.nmsu.edu/15-62

## PART 1: PURPOSE

Title III of the E-Government Act, entitled the Federal Information Security Management Act (FISMA) requires each federal agency to develop, document, and implement an agency-wide program to provide information security for the information and systems that support the operations and assets of the agency, including those provided or managed by another agency, contractor, or other sources.

As a research institution, New Mexico State University ("university" or "NMSU") seeks and is awarded federal funding, typically subject to information security stipulations. As directed by RPM 2.90, Information Data Security, NMSU administration adopts this rule for the protection of federally funded information as required by law, and as may be required by state and federal agency and regulatory directives pertaining to information security typically incorporated by reference in Grants and Contracts.

This rule does not apply to Criminal Justice Information Services (CJIS) data, whether classified or unclassified. CJIS-related responsibilities are assigned to the NMSU Police Department and are addressed in **ARP 16.01**, Part 4.

## PART 2: DEFINITIONS

A. **Chief Information Security Officer (CISO)**: The CISO is the individual responsible for the implementation of security policies and procedures, information security system assessments, and investigation of security violations, and for proposals of changes or new information security policies.
B. **Chief Privacy Officer (CPO)**: The CPO is responsible to interpret FISMA defined information, for the guidance of information security policies, the evaluation of existing information security policies, proposal of new

information security policies, or recommendation for changes to existing policies for NMSU. The CPO is the point of contact for security violations and/or suspicious activity, and the subject matter expert on activities under FISMA's purview.

C. **Contract**: A Contract in the context of this rule is a legally binding agreement to provide a product or service for the benefit of the funding agency, in accordance with specific terms and conditions. Contracts provide for payments to the university to cover project costs or to pay a fixed price (in accordance with terms and conditions relating to allowable costs), in exchange for satisfactory completion of the project.
D. **Facility Security Officer (FSO)**: The FSO has an overall individual responsibility for protecting classified information, a contractual obligation to ensure the effective implementation of the security requirements and procedures within a cleared facility involved in classified projects. The FSO supervises and directs security measures necessary for implementing applicable requirements under the Department of Defense (DoD) National Industrial Security Program (NISP), its operating manual, and related federal requirements for classified information.
E. **Federal Information**: 'Federal information' means information created, collected, processed, maintained, disseminated, or disposed of by or for the federal government, in any medium or form.
F. **FISMA**: The Federal Information Security Management Act of 2002 (FISMA) is a federal law which mandates protection of Federal Information from unauthorized access, use, disclosure, disruption, modification or destruction, in order to provide confidentiality, integrity and availability. The award of Grants, Contracts and other Sponsored Research awards from federal agencies are often conditioned upon compliance with FISMA requirements.
G. **General Facility Security Officer (GFSO)**: The GFSO is responsible for ensuring physical security of facilities as required by federal requirements such as those required by the U.S. Department of Defense and other federal agencies for controlled unclassified information or requiring other physical safeguards.
H. **Grant**: A Grant is an agreement to accomplish something for the public good in exchange for money, property, or services. Federal agencies typically use contractually binding grant agreements for the award of Research funds to universities.
I. **NIST**: The National Institute for Standards and Technology (NIST) is tasked with establishing and codifying the standards to support FISMA. These standards are defined in NIST Special Publications.
J. **NMSU Entity**: sometimes also referred to as "unit", is a general term which may refer to a college, a department or any other individual

administrative unit within the NMSU System, including but not limited to agricultural experiment stations.

1. NIST Special Publication 800-53 details the required technical control requirements for classified information and systems.
2. NIST Special Publication 800-171 details the required technical control requirements for protecting controlled unclassified information in Nonfederal Information Systems and Organizations.

K. **Principal Investigator (PI)**: The PI is the individual responsible for the intellectual direction of a Research project and the training of graduate students. This responsibility includes the conduct of the project, fiscal and administrative accountability, and adherence to the requirements of all relevant laws, regulations, policies, procedures and agreements. If a project has multiple investigators (lead Principal Investigator and co-principal investigators), they shall share the responsibility and accountability for leading and directing the project, both intellectually and logistically. *See* **ARP 11.20 – Responsibilities and Accountability for Sponsored Project Awards**.

L. **Research**: Research as used in this rule is a systematic investigation, including research development, testing, and evaluation, designed to develop or contribute to generalizable knowledge. *See* 45 CFR 164.501.

M. **Sponsored Research**: All Research and development activities that are sponsored by federal or other agencies and organizations. This term includes activities involving the training of individuals in Research techniques (commonly called Research training) where such activities utilize the same facilities as other Research and development activities and where such activities are not included in the instruction function.

## PART 3: FISMA COMPLIANCE AT NMSU

A. **Grantee/Contractor Compliance**: NMSU entities awarded funding pursuant to a Grant, Contract, or other award with information security stipulations must comply with FISMA requirements.

B. **Administrative Support Unit Compliance**: Administrative support units involved in the administration of any Grant, Contract or award with FISMA stipulations must comply with FISMA requirements. Such units include and are not limited to:

1. Information Technology Services
2. Research Administration Services
3. Office of Research Computing
4. Sponsored Projects Accounting

## PART 4: FISMA REQUIREMENTS

The National Institute of Standards for Technology (NIST) defines nine general steps for FISMA compliance:

A. Categorize the information to be protected;
B. Select minimum baseline controls;
C. Refine controls using a risk assessment procedure;
D. Document the controls in the system security plan;
E. Implement security controls in appropriate information systems;
F. Assess the effectiveness of the security controls once they have been implemented;
G. Determine agency-level risk to the mission or business case;
H. Authorize the information system for processing; and
I. Monitor the security controls on a continuous basis.

Special Publications (SPs) from NIST such as (NIST SP 800-171) must be used as a guide to accomplish the above steps and to document compliance with FISMA.

## PART 5: DUTIES – ROLES AND RESPONSIBILITIES

NMSU designates the Information Technology Compliance Officer as the Chief Privacy Officer (CPO) to coordinate FISMA compliance at all NMSU campuses. This position may perform other tasks and duties on behalf of the university. The CPO is responsible for facilitating compliance with this rule by developing, implementing and maintaining a university system wide FISMA Compliance Program, to include the dissemination of FISMA compliance training and other resources and guidance to the university community. To ensure comprehensive coverage of the program, the CPO should collaborate and coordinate efforts with the NMSU entities and officials listed below and others as appropriate, as well as report progress and issues to the university's Compliance Oversight Committee.

A. **Chief Privacy Officer (CPO)**: The CPO will is responsible for privacy matters related to FISMA as well as ensuring the proper development and implementation of relevant rules and procedures.
B. **Chief Information Security Officer (CISO)**: The CISO will ensure and guide the implementation of technical information security controls in collaboration with the CPO.
C. **General Facility Security Officer (GFSO)**: The GFSO is responsible for ensuring physical security of facilities as required by federal requirements relating to controlled unclassified information or other contractual required physical safeguards.
D. **Facility Security Officer (FSO)**: The FSO is responsible for ensuring

physical security of facilities as required by federal requirements and provide guidance on the implementation of physical safeguards relating to classified information.

E. **Research Administration Services (RAS)**: RAS is responsible to maintain a log or other recordkeeping system for those Grants and Contracts which impose requirements on the institution relating to information security, and shall send a notification directly to the CPO and other authorized personnel about the provision(s).
F. **Office of Research Computing:** The Office of Research Computing will work with the Chief Privacy Officer, Research Administration Services, Sponsored Projects Accounting SPA and others to implement technical or other controls for purposes of FISMA compliance.
G. **Principal Investigator(s):** All Principal Investigators are responsible for operating and conducting their Research or work in a FISMA compliant manner.

## PART 6: DATA BREACH PROTOCOLS

All NMSU employees, students or other affiliates upon becoming aware of the potential for private data to be compromised or any type of data breach relating to Federal Information, must report such incidents to the CPO. The CPO will:

A. **Communicate Up**: Communicate to NMSU senior officials regarding reported data compromises and breaches;
B. **Investigate, Document and Resolve**: Investigate, document and manage reported incidents in collaboration with General Counsel, Human Resources and other university departments as appropriate;
C. **Report**: Submit timely notices about data breaches, as required by the various federal agencies, and as required by FISMA or as per the Grant or Contract agreement;
D. **Notify Affected Parties**: Notify affected individuals in collaboration with University Communications; and
E. **Maintain Records**: Retain appropriate documentation for each reported data breach/incident.

## PART 7: FISMA TRAINING REQUIREMENTS

Supervisors will arrange for faculty, including affiliated faculty, staff or others authorized to access Federal Information to receive training about this rule and job duties relating to FISMA compliance. With the leadership and guidance from the CPO, the NMSU entities responsible for administration of a Grant or

Contract must facilitate such training prior to an employee or other authorized individual commencing work pursuant to the Grant or Contract, and periodically thereafter. One mechanism for delivery of the training may be to invoke the authority of the provost and/or assistant vice president of Human Resource Services to mandate the training pursuant to **ARP 6.89 – Mandatory Employee Training; Professional Development Opportunities**. Official training logs and certificates will be kept in the **Training Central** system maintained by Human Resource Services, **Center for Learning and Professional Development**.

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 15 | Information Management and Data Security

**Rule Administrator:** Chief Information Security Officer

**Last Updated:** 01/09/2019

## Related

**Cross-Reference:**
**RPM 2.90**

**ARP 6.89 – Mandatory Employee Training; Opportunities for Professional Development**

**ARP 11.20 – Responsibilities and Accountability for Sponsored Project Awards**

***See also:***

**RPM 15.50 - Information Data Security**

**Revision History:**

01/09/2019 Amendement approved by Chancellor
02/13/2018 Amendment approved by Chancellor
Recompiled 2017, formerly Rule 3.65
10/21/2015 former Policy 3.65 replicated by Board of Regents as initial Rule 3.65
10/10/2011 Policy adopted by Board of Regents

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 15.63 – Protection of Customer Information; GLBA Compliance

arp.nmsu.edu/15-63

## PART 1: PURPOSE

As directed by RPM 2.90, Information Data Security, NMSU administration adopts this rule for the purpose of safeguarding the privacy of non-public personal information it may receive pertaining to its students and employees, in compliance with the Gramm-Leach-Bliley Act, as may be amended, and with other applicable regulations (e.g. the Federal Trade Commission's Safeguards Rule and Financial Privacy Rule). Additionally, the terms of the Program Participation Agreement relating to financial aid funding requires NMSU to be able to demonstrate such compliance, with particular attention to information provided to institutions by the Department of Education or information obtained in support of the administration of the Title IV federal student financial aid programs authorized under Title IV of the Higher Education Act, as amended.

## PART 2: DEFINITIONS

A. **GLBA**: GLBA is the Gramm-Leach-Bliley Act of 1999 as may be amended, which requires financial institutions including NMSU to explain their information-sharing practices to their customers and to safeguard sensitive data. As used in this rule, reference to "GLBA" will include the requirements of the implementing regulations promulgated under the authority of the Act such as the Safeguards and Financial Privacy Rules.
B. **Customer Information**: Customer information refers to the collection of "nonpublic personal information (NPI)", also referred to as private or sensitive information for GLBA purposes.
    1. NPI is any "personally identifiable financial information" that a financial institution collects about an individual in connection with providing a financial product or service, unless that information is otherwise "publicly available." **NPI is**:

a. any information an individual gives you to get a financial product or service (for example, name, address, income, Social Security number, or other information on an application);
b. any information you get about an individual from a transaction involving your financial product(s) or service(s) (for example, the fact that an individual is your consumer or customer, account numbers, payment history, loan or deposit balances, and credit or debit card purchases); or
c. any information you get about an individual in connection with providing a financial product or service (for example, information from court records or from a consumer report).

2. NPI does not include information that you have a reasonable basis to believe is lawfully made "publicly available." **In other words, information is not NPI when you have taken steps to determine**:
   a. that the information is generally made lawfully available to the public; and
   b. that the individual can direct that it not be made public and has not done so.For example, while telephone numbers are listed in a public telephone directory, an individual can elect to have an unlisted number. In that case, her phone number would not be "publicly available."

C. **Chief Privacy Officer (CPO)**: The CPO is the individual responsible for the development and implementation of information security policies and procedures for NMSU, and who is the primary contact 1) to manage situations in which customer information is compromised, 2) to receive and refer or process customer complaints, 3) to provide information to the university community about any matter covered by this rule or the GLBA Notice of Privacy Practices. *See* Parts 6 and 7 below.
D. **Chief Information Security Officer (CISO)**: The CISO is the individual responsible for the implementation of technical security policies and procedures, information security system assessments, and investigation of technical security violations, and for proposals of changes or new information security policies.
E. **Notice(s) of Privacy Practices**: Notice of Privacy Practices refers to the document that specifies how NMSU uses and discloses customer information and the rights of individuals related to this information.
F. **NMSU Entity**: NMSU Entity, sometimes also referred to as "unit", is a general term which may refer to a college, a department or any other individual administrative unit within the NMSU System, including but not limited to agricultural experiment stations.

# PART 3: GLBA COMPLIANCE AT NMSU

A. **Financial Aid Offices**: The NMSU Financial Aid Office at each campus location must operate in compliance with GLBA requirements.

B. **Administrative Support Component**: Administrative support units must operate in compliance with GLBA requirements if they provide support functions which involve access to customer information in performing those functions, such as:
    1. Information Technology Services
    2. Accounts Receivable
    3. Internal Audit
    4. Office of General Counsel
    5. Office of Institutional Analysis
    6. Admissions Office
    7. Registrar
C. **Others**: In the event that an NMSU employee or office not identified above as either a Financial Aid Office or Administrative Support Component has a need to access customer information for a special project or other job related purpose, the responsible administrator for the unit must contact the Chief Privacy Officer (CPO) for guidance to ensure compliance with this rule.

# PART 4: GLBA REQUIREMENTS

The NMSU entities identified in Part 3, with leadership and guidance from the CPO and officials listed in Part 6 below, will maintain customer information in a secure and confidential manner using security standards established under the National Institute of Standards for Technology Special Publication 800-171 (NIST SP 800-171) as a guide. These standards require:

A. Development, implementation, and maintenance of a written information security program;
B. Designation of the employee(s) responsible for coordinating the information security program;
C. Identification and assessment of risks to customer information;
D. Design and implementation of an information safeguards program;
E. Selection of appropriate service providers capable of maintaining appropriate safeguards; and
F. Periodic evaluation and updates to the written information security program.

Additionally, until repealed or amended, guidance relating to administrative, technical and physical security of customer information is identified in the document entitled, "NMSU's Written Information Security Plan" available at NMSU Privacy.

# PART 5: PRIVACY NOTICES

Under the leadership of and guidance from the CPO, the NMSU Financial Aid Office at each campus location will document how it uses and discloses customer information and the rights of individuals related to this information. Privacy Notices will be provided in accordance with the federal Privacy Rule.

## PART 6: DUTIES – ROLES AND RESPONSIBILITIES

The NMSU Information Technology Compliance Officer serves as the Chief Privacy Officer (CPO) for all NMSU campuses for purposes of GLBA compliance. This position may perform other tasks and duties on behalf of the university. The CPO is responsible for the development, implementation, and maintenance of a GLBA Compliance Program for the NMSU system, to include the provision of ongoing training and resources to employees and other individuals authorized to access customer information. To ensure comprehensive coverage of the program, the CPO should collaborate and coordinate efforts with those listed below, as well as report progress and issues to the university's Compliance Oversight Committee and/or Executive Management.

1. Chief Information Security Officer (CISO): The CISO will provide guidance for the implementation and maintenance, as needed, for technical information security controls.
2. NMSU's Financial Aid Director: The director is responsible for ensuring that the Financial Aid office at each NMSU campus operates according to GLBA requirements in the handling of Student Financial Aid information. The director will coordinate and cooperate with the CPO and the CISO in the establishment and implementation of an information security, privacy and training program.

## PART 7: DATA BREACH NOTIFICATION, REPORTING AND HANDLING

All NMSU employees, students or other affiliates upon becoming aware of a potential data breach/compromise relating to customer information, must report such incidents to the CPO. The CPO will:

A. Communicate to NMSU senior officials regarding reported data compromises and breaches;
B. Investigate, document and manage reported incidents in collaboration with General Counsel, Human Resources and other university departments as appropriate;
C. Submit timely notices about data breaches, as required by the various regulatory agencies;

D. Notify affected individuals in collaboration with University Communications; and
E. Retain appropriate documentation for each reported data breach/incident.

## PART 8: GLBA TRAINING REQUIREMENTS

Supervisors will arrange for the employees and other authorized individuals (e.g. volunteers) with access to customer information to be trained about this rule and job duties relating to GLBA compliance. With the leadership and guidance from the CPO, the NMSU entities identified in Part 3 above must facilitate such training to staff upon hire and periodically thereafter. One mechanism for delivery of the training may be to invoke the authority of the provost and/or assistant vice president of Human Resource Services to mandate the training pursuant to ARP 6.89 – Mandatory Employee Training; Opportunities for Professional Development. Official training logs and certificates will be kept in the Training Central system maintained by Human Resource Services, Center for Learning and Professional Development.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 15 | Information Management and Data Security

**Rule Administrator:** Chief Information Security Officer

**Last Updated:** 02/13/2018

## Related

**Cross-Reference:**
RPM 15.50 Information Data Security

**Revision History:**

02/13/2018 Amendment approved by Chancellor;
Recompiled 2017, formerly Rule 2.90.30;
10/21/2015 former Policy 2.90.30 replicated by Board of Regents as initial Rule 2.90.30

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 15.64 – Social Security Numbers, Use of

arp.nmsu.edu/15-64

Each applicant must possess a social security card in order to be employed. If an applicant does not have a social security card or requests the use of a name that is different in any way from the name on the card, it is the responsibility of the applicant to have the matter corrected at the nearest Social Security Administration Office. Social security numbers are collected and legally required for federal and state reporting, including financial aid, tuition and fee payment and employment tax reporting. In the event that the university does not have the social security number for a student, a reasonable effort will be made to obtain this information. The social security number is a confidential record and is maintained as such by the university in accordance with the Family Educational Rights and Privacy Act.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 15 | Information Management and Data Security

**Rule Administrator:** Chief Information Security Officer

**Last Updated:** 10/03/2017

## Related

**Cross-Reference:**
**Revision History:**

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 15.71 – Acquisition of Software Systems

arp.nmsu.edu/15-71

## A. Purpose

This Rule specifies the approval requirements for the purchase of software systems that interact with university data.

## B. Rule

The acquisition of any software system that interacts with university data or has enterprise-wide impact requires approval by the appropriate university data custodian(s), Procurement Services Office and the university's central computing department, ICT. Failure to do so shall result in one of the following:

1. Delay of the software system's implementation and integration with the university's central systems
2. Postponement of related technology project
3. Exclusion of the system from connectivity to university systems and data

Practices such as "vendor exercising," which is the practice of inviting vendors to demonstrate their products prior to Procurement Services Office's involvement in the product's purchase, violate NMSU purchasing guidelines and are prohibited.

## C. Process

The acquisition and implementation of software systems Rule process, Security Guidelines, details the software systems evaluation, notification of potential software systems acquisition, and the acquisition approval process.

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 15 | Information Management and Data Security

**Rule Administrator:** Chief Information Security Officer

**Last Updated:** 09/29/2017

## Related

**Cross-Reference:**
**Revision History:**

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 15.72 – NMSU Records Access

arp.nmsu.edu/15-72

## A. Purpose

This Rule specifies the requirements for accessing computer data logs.

## B. Rule

Access to computer data logs is restricted. Access to these logs shall be granted with written approval of Chancellor/Chancellor, provost, general counsel, human resources, internal audit department or law enforcement.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 15 | Information Management and Data Security

**Rule Administrator:** Chief Information Security Officer

**Last Updated:** 09/29/2017

## Related

**Cross-Reference:**
**Revision History:**

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 15.73 – Caller ID

arp.nmsu.edu/15-73

## A. Purpose

This Rule defines the caller id Rule in effect at the NMSU Las Cruces campus and Alamogordo campus telephone systems. Caller identification information is deployed for both incoming and outgoing calls.

## B. Rule

It is the Rule of NMSU to share caller identification information with national telecommunications infrastructure. Telephone numbers that are listed as "private" on NMSU's telephone system shall be registered as "blocked" with external carriers. Caller identification information on all "unblocked" numbers shall be shared.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 15 | Information Management and Data Security

**Rule Administrator:** Chief Information Officer

**Last Updated:** 09/29/2017

## Related

**Cross-Reference:**
**Revision History:**

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 15.74 – Bandwidth Management

arp.nmsu.edu/15-74

## A. Purpose

This rule ensures that adequate bandwidth is available for official university use as overseen by NMSU's Information Technology governing bodies.

## B. Rule

NMSU limits aggregate bandwidth for applications associated with peer-to-peer file sharing depending on bandwidth availability. NMSU shall not eliminate the use of peer-to-peer file sharing programs on the network, nor monitor the content of file sharing programs, unless mandated by law.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 15 | Information Management and Data Security

**Rule Administrator:** Chief Information Officer

**Last Updated:** 09/29/2017

## Related

**Cross-Reference:**
**Revision History:**

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 15.75 – Network Connection

arp.nmsu.edu/15-75

## A. Purpose

Connections of devices to the NMSU institutional network are controlled to prevent disruption of service or loss of institutional or personal data.

## B. Rule

ICT is responsible for the design, installation, and operation of the NMSU's institutional network. This network includes all voice, video, and data connections.

1. **Device Compliance:** All devices connected to the institutional network must comply with requirements published in university policies. Devices not in compliance, or which disrupt other network clients, may be disconnected.
2. **Network(s) Compliance:** To insure compliance with current policies and regulations, all network wiring, related components and installation must be approved by ICT. Installations that do not comply with published requirements are not authorized to be connected to the institutional network.
3. **Protective Network Disconnection:** Any networked device that compromises or critically impacts the NMSU network shall be immediately disconnected from the network until such time that the cause of the compromise or impact is rectified. If a networked device is identified as potentially harmful to NMSU's network, the device owner shall be notified to take corrective action to ensure that the NMSU network shall not be impacted. If corrective action is not taken, the network device shall be disconnected from the network. In addition, any networked device that is not operating with updated virus scanning software, up-to-date critical operating system updates, or other software necessary to protect the NMSU network, may also be disconnected from the network.
4. **Data Network Device Registration:** All devices connected to NMSU-Net must be registered with the netreg.nmsu.edu. Devices that are not registered shall be disconnected. This includes all devices such as printers, servers, workstations, and other devices.

5. **Guest Connections:** Entities and devices belonging to entities that connect to the NMSU network (NMSU-Net) and are not governed by the Board of Regents of New Mexico State University (NMSU) shall be considered guest connections.
6. **Fees:** NMSU reserves the right to impose a fee on any and all users, including guest connections. If required by either the ISPs or by action of the NMSU Administration. Advance notification shall be given to those affected.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 15 | Information Management and Data Security

**Rule Administrator:** Chief Information Officer

**Last Updated:** 09/29/2017

## Related

**Cross-Reference:**
**Revision History:**

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 15.76 – NMSU Wireless Network

arp.nmsu.edu/15-76

## A. Purpose

This Rule ensures the continued safety and usability of the wireless network infrastructure at NMSU.

## B. Rule

Installation, engineering, maintenance, and operation of wireless networks serving NMSU faculty, staff, or students, on any property owned or tenanted by NMSU, are the sole responsibility of ICT's telecommunication and networking services.

1. Individuals and departments shall not independently deploy wireless networking equipment on NMSU wireless network infrastructure without approval by ICT's telecommunication and Networking services division.
2. Any wireless networking equipment independently installed without prior approval shall be subject to disconnection/removal without notice.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 15 | Information Management and Data Security

**Rule Administrator:** Chief Information Officer

**Last Updated:** 09/29/2017

## Related

**Cross-Reference:**
**Revision History:**

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 15.80 – Use of NMSU Logo; University Communications

arp.nmsu.edu/15-80

## PART 1: INTRODUCTION

The office of University Communications and Marketing Services (UCOMM) is responsible for NMSU's news, media relations, publicity, institutional marketing, top-level websites as well as branding including the use of the NMSU Logo and other protected trademarks. Additionally, UCOMM functions as the primary liaison between NMSU and the mass media, as well as builds direct connections to important audiences via social media. Faculty and staff are encouraged to respond to media inquiries directly when acting in their area of expertise. Faculty and staff who respond to media inquiries are requested to inform UCOMM so the media contact can be recorded. UCOMM is also available to provide advice to NMSU departments regarding matters involving the media. Adoption of this revised Rule will supersede former Rule 2.85, "University Logo".

## PART 2: USE OF NMSU LOGO AND OTHER PROTECTED NMSU TRADEMARKS

### A. Use of NMSU Logo by NMSU Entities

NMSU encourages its departments, laboratories and other units to use the NMSU Logo to identify and promote themselves. Their use must be reproduced from an authorized version, available from UCOMM. A license agreement is *not* required for academic or educational use(s) of the official NMSU Logo by NMSU entities, as long as the rules below are followed and items marked with the logo are not commercially marketed. The following rules apply to use of the NMSU Logo by NMSU entities:

1. The NMSU Logo may not be redrawn or modified in any way. **This is the NMSU Logo**:

2. Specific rules for reproducing the symbol are located in the NMSU brand website at **https://brand.nmsu.edu/logo**.
3. For posters, presentations or conference materials, the NMSU Logo can be downloaded at **https://brand.nmsu.edu/logo**.
4. When partnerships with external funding agencies, other universities or government labs require using both the NMSU Logo and the partner logo, the logo set up will be reviewed by UCOMM to ensure proper use. When the NMSU Logo will be displayed as a partner logo (not combined or altered in any way), it can be downloaded at **https://brand.nmsu.edu/logo**.
5. When planning an NMSU special event (e.g. Homecoming) which may involve the use of a theme logo in addition to the NMSU Logo, the planning group should coordinate with UCOMM and obtain approval for the limited use of the NMSU Logo with the special event logo.

## B. Third Party Use of NMSU Logo or Other Protected Trademarks

Third parties may only be permitted to use NMSU's protected trademarks, including the official NMSU Logo, through a license agreement. The Chancellor has delegated authority to approve such licenses to UCOMM. Third parties and NMSU entities seeking permission to use NMSU's protected trademarks for retail purposes or to promote non-educational special events shall coordinate such use with the Collegiate Licensing Company at **retail@clc.com**. For assistance, please direct questions to **mktgserv@nmsu.edu**.

## C. Advisory Logo Committee

At the discretion of the Associate Vice President for University Communications and Marketing Services, an advisory logo committee may be convened on an *ad hoc* basis to assist and advise concerning proposed uses for the NMSU Logo or other protected trademarks. The advisory committee shall consist of management representatives from UCOMM and the university system as deemed appropriate by the chair for the topic(s) to be discussed.

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 15 | Information Management and Data Security

**Rule Administrator:** AVP Marketing and Communication

**Last Updated:** 06/21/2016

## Related

**Cross-Reference:**
https://brand.nmsu.edu/

**Revision History:**
2017 Recompilation, formerly Rule 2.30 Parts 1–2
06/21/2016 Major revision approved by Chancellor
10/21/2015 former Policies 2.80 and 2.85 replicated by Board of Regents as initial Rules 2.80 and 2.85
Prior Revision History as Policies 2.80 and 2.85 not available

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 15.81 – Use of NMSU and NMSU-Hosted Personal Websites

arp.nmsu.edu/15-81

## PART 1: GUIDELINES FOR OFFICIAL NMSU WEBSITES

### A. Roles and Responsibilities

UCOMM is responsible, working in collaboration with ICT, for establishing consistent guidelines for official NMSU websites. Personal Websites are not subject to these guidelines, unless used by faculty for instructional purposes, which is discouraged. UCOMM will collaborate and coordinate with NMSU units throughout the system regarding the content and design of official NMSU web pages.

1. UCOMM will format and maintain and the "institution's home pages" and will provide templates to ensure the online identity for the university follows consistent branding and design standards. Official NMSU websites must use the approved web templates and themes provided by UCOMM. UCOMM will provide the documentation for the use of official NMSU templates and will issue periodic guidance to NMSU units regarding content and design specifications.
2. The Associate Vice President of UCOMM, or designee, may convene an advisory web governance board, on an ad hoc basis, to assist with further development or amendment of web standards, resolution of complaints or other issues relating to the administration of this Rule. The web governance board shall consist of management representatives from UCOMM and ICT, and others from the university or local community as appropriate for the topic(s) to be discussed.
3. Information and Communication Technologies (ICT) will provide standard web site space and grant access for NMSU entities upon request and maintain the servers and systems in which these sites are located. ICT will provide the technical support to the NMSU entities and web content managers to assist with the issues relating to creation, access and maintenance of their official NMSU websites. NMSU entities that operate their own web servers are subject to administrative rules relating to NMSU Server Administration and Operation.
4. NMSU Entities that publish a Web page must designate a regular staff or faculty employee to serve as a steward and point of contact for the website. The staff or

faculty member designated to steward for the website shall also serve as liaison to UCOMM and ICT and ensure that the website stays in compliance with these website guidelines and other applicable university policies and rules.

5. NMSU Entities are responsible for preparing the content, maintaining their own web pages and ensuring the content remains accurate and current to the university community or to the public, as appropriate.

### B. Accessibility

All university web pages shall comply with the requirements of the Americans with Disabilities Act and Section 508 of the Rehabilitation Act of 1973. NMSU entities may consult with the Office of Institutional Equity and ICT for assistance with compliance with this requirement.

### C. Use of Copyrighted Material

Web page publishers and content managers are responsible for ensuring that the legal right to use any non-original content is obtained from the copyright owner. Non-original work (photographs, artwork or written content) is generally protected by U.S. copyright law and should be included on web pages only with written permission from the copyright owner. For use of electronic materials found on the internet, please contact the owner of the web page that is the source of the desired material to obtain permission.

### D. Advertising and Sponsorship

NMSU official and instructional websites shall not contain an endorsement of, nor solicitation for, any commercial enterprise, product or political affiliation. NMSU Entities may acknowledge contributors, donors or sponsors on web pages, including specially designated sponsors' pages. Recognition of sponsors may include names, a brief phrase describing the business, and a link to sponsor's Web sites. Sponsor's logos or trademarks may only be included with the written permission of the sponsor.

## PART 2: GUIDELINES FOR PERSONAL AND STUDENT ORGANIZATION WEBSITES

NMSU grants individual students, faculty, staff, and recognized student organizations and clubs the privilege and opportunity to maintain a personal website, for personal enrichment and use. These websites will be referred to as "Personal Websites". Personal websites, although hosted by NMSU, are not official NMSU sponsored websites and therefore shall

not be entitled to web support from NMSU Information and Communication Technologies. Personal websites are considered "limited public forums" (***See* RPM 3.63 – Freedom of Expression**) and are subject to the following rules:

A. **Link to Author Contact Information**: Each page of a personal website must contain a link to the current contact information of the website author.
B. **Account Maintenance**: Personal websites will be provided 5 GB of space. Accounts that have not been active for more than 180 days will be deactivated. Accounts inactive for more than 365 days will be purged. Website owners will be notified in advance of deactivation.
C. **Required Disclaimer**: In a conspicuous location on each personal website homepage, either the university or the author, or both, shall post the following disclaimer: "This website is created and maintained by the website author and does not represent the views of NMSU."
D. **Use as an Instructional Tool**: Faculty members should not use a personal website for supplemental instructional purposes; rather, they should use NMSU's course management software or the instructional web space provided by ICT. Faculty members who choose to use a personal website for instructional purposes will be subject to all NMSU policies and rules applicable in the workplace.
E. **Chartered Student Organizations and Clubs**: Official chartered student organizations and clubs may use the student organization web space provided by ICT for their organization website upon approval through Campus Activities. Official student organization and clubs are permitted to use the NMSU templates and are not required to include the disclaimer.
F. **Complaints or Concerns Regarding Personal Websites**: The university does not monitor or maintain the personal and student organization websites. Comments or concerns should be directed to the page authors, or may also be routed through the university's confidential reporting system, EthicsPoint (https://auditservices.nmsu.edu/reporting-line/). Concerns and complaints will be reviewed and addressed in accordance with **RPM 3.63** and in consultation with the Web Governance Board and other appropriate NMSU officials, including but not limited to the Director of Campus Activities.

# PART 3: GUIDELINES FOR WEBSITES USED FOR "INSTRUCTIONAL PURPOSES"

NMSU encourages faculty to use NMSU's course management software for online instructional content or the web space provided for instructional use by ICT. NMSU will provide faculty the privilege and opportunity to maintain websites for supplemental

instructional content or as an instructional tool. These websites will be referred to as "Instructional websites". Instructional websites are distinct from official NMSU websites, and are subject to the following rules:

A. **Use for Supplemental Instructional Content**: ICT will provide faculty will web space on teach.nmsu.edu for supplemental instructional content.
B. **Use as an Instructional Tool**: ICT will provide faculty and students web space on study.nmsu.edu for instructional use. Websites on study.nmsu.edu will be reset on a semester basis.
C. **Account Maintenance**: Web space provided for instructional purposes pursuant to this Part shall be provided 5 GB of space. Accounts that have not been active for more than 180 days will be deactivated. Accounts inactive for more than 365 days will be purged. Website owners will be notified in advance of deactivation.
D. **Security**: Account maintenance should be in accordance with all university purge policies and procedures. Web pages that are used as supplemental instructional content or as an instructional tool shall:
    1. Only be available to users with NMSU accounts;
    2. Be accessed on campus or by VPN only;
    3. Not be crawled or indexed by search engines; and
    4. With the exception of branding guidelines, stay in compliance with NMSU website guidelines and other applicable university policies and rules.
E. **Temporary Access**: In cases when faculty need provide access to non NMSU entities, they can request assistance from ICT to provide guest accounts.

# PART 4: DEFINITIONS

A. **"NMSU Entity"**: An NMSU entity, sometimes also referred to simply as a "unit", is the term used to refer to a college, a department or any other individual administrative unit within the NMSU System. Private not-for-profit corporate entities recognized to be affiliated with NMSU for fundraising, research, public service, or student activity purposes, while subject to certain NMSU policies, rules and procedures are not considered "NMSU entities".
B. **"Personal Website"**: A Personal Website is a personal web page published and maintained by individual faculty, staff, student, or student club or organization hosted by NMSU.
C. **"Official NMSU Website"**: An official NMSU website is one that represents the university, its offices, divisions and departments, for the benefit of the university's various audiences: students, employees and visitors.
D. **"Instructional Website"**: An instructional website is a web page that is published, maintained, and created by faculty to contain supplemental instructional content; or a

website that is provided for students to use as instructional tool that is hosted by NMSU.

E. **"Institutional Homepages"**: The following websites are NMSU's institutional homepages: nmsu.edu and inside.nmsu.edu.

# PART 5: ADDITIONAL GUIDELINES AND TOOLS

Consistent with ARP 15.80 and ARP 15.81, Rule Administrator may amend or issue supplemental design standards, or forms and checklists to facilitate the implementation, application, and enforcement of Rules ARP 15.80 and ARP 15.81. Such supplemental information will be posted at: http://brand.nmsu.edu.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 15 | Information Management and Data Security

**Rule Administrator:** AVP Marketing and Communication

**Last Updated:** 10/03/2017

## Related

**Cross-Reference:**
See Also Rule 2.35, General NMSU ICT Policies

**Revision History:**

*[June 2017: Former Rule 2.80 Parts 3-7 recompiled as Rule 15.81, Parts 1-51]*

06.14.16 major revision rewriting Rules 2.80 and 2.85 recommended by UAC; 06.21.16 major revision approved by Chancellor. 10.21.15: BOR approved Policies 2.80 and 2.85 to be replicated as initial Rules 2.80 and Rule 2.85. ***Prior Revision History as Policies 2.80 and 2.85 not available.***

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 15.91 – Identity Theft Protection

arp.nmsu.edu/15-91

## A. Introduction

The Fair and Accurate Credit Transactions Act of 2003, an amendment to the Fair Credit Reporting Act, requires rules regarding identity theft protection to be promulgated and adopted jointly by the Office of the Comptroller of the Currency, Treasury; the Board of Governors of the Federal Reserve System; the Federal Deposit Insurance Corporation; the Office of Thrift Supervision, Treasury; the National Credit Union Administration; and the Federal Trade Commission. The risk to New Mexico State University (the "university"), and its students, faculty, staff, and other constituents from data loss and Identity Theft is of significant concern to the university.

## B. Purpose

The university adopts this Identity Theft Prevention Program (the "Program") in an effort to detect, prevent, and mitigate Identify Theft in connection with the opening of a Covered Account or any existing Covered Account. The Program is further intended to help protect students, faculty, staff, and other constituents and the university from damages related to the fraudulent activity of Identity Theft.

### 1. This Program will

a. Identify patterns, practices, or specific activities that indicate the possible existence of Identity Theft with regard to new or existing Covered Accounts;
b. Detect Red Flags that have been incorporated into the Program;
c. Respond appropriately to any Red Flags that are detected under the Program;
d. Ensure periodic updating of the Program, including reviewing the accounts that are covered and the identified Red Flags that are part of the Program; and
e. Promote compliance with state and federal laws and regulations regarding Identity Theft protection.

## C. Scope

The Program applies to all units of the university's Las Cruces campus, community college campuses and satellite operations having interaction with students, faculty, staff, and other constituents.

## D. Definitions

1. **Covered Account**: An account the university offers or maintains that involves or is designed to permit multiple payments or transactions; and every new and existing account maintained by the university for its students, faculty, staff, and other constituents that meets the following criteria:
    a. Accounts for which there is a reasonably foreseeable risk of Identity Theft; or
    b. Accounts for which there is a reasonably foreseeable risk to the safety or soundness of the university from Identity Theft, including financial, operational, compliance, reputation, or litigation risk.
2. **Identity Theft**: Fraud committed or attempted using the identifying information of another person without authority.
3. **Personally Identifying Information**: Any information that may be used to identify a specific person in conjunction with the name of the person, including: name, address, telephone number, social security number, date of birth, government issued driver's license or identification number, alien registration number, government passport number, employer or taxpayer identification number, student identification number, computer's Internet Protocol address, banking account information and credit card information.
4. **Red Flag**: A pattern, practice, alert, or specific activity that indicates the possible existence of Identity Theft.
5. **Program Administrator**: The individual assigned with primary responsibility for oversight of the Program.

## E. Procedures for Theft Prevention

### 1. Identification of Red Flags

Any time a Red Flag, or a situation closely resembling a Red Flag, is apparent, it should be investigated for verification by the highest authority within the operation or department of the university where it has or is occurring. The following list is not intended to be complete or comprehensive, but rather only provide examples of the most common red flags.

a. Alerts, notifications, or warnings from a consumer reporting agency.

Examples of these Red Flags include, but are not limited to, the following:

i. A fraud or active duty alert included with a consumer report;
ii. A notice of credit freeze from a consumer reporting agency in response to a request for a consumer report;
iii. A notice of address discrepancy from a consumer reporting agency as defined in § 334.82(b) of the Fairness and Accuracy in Credit Transactions Act; and
iv. A consumer report that indicates a pattern of activity inconsistent with the history and usual pattern of activity of an applicant or customer, such as:
    - A recent and significant increase in the volume of inquiries;
    - An unusual number of recently established credit relationships;
    - A material change in the use of credit, especially with respect to recently established credit relationships; or
    - An account that was closed for cause or identified for abuse of account privileges by a financial institution or creditor.

b. Suspicious documents.

Examples of these Red Flags include, but are not limited to, the following:

i. Documents provided for identification that appears to have been altered or forged;
ii. The photograph or physical description on the identification is not consistent with the appearance of the student, faculty, staff, and other constituent presenting the identification;
iii. Other information on the identification is not consistent with information provided by the person opening a new Covered Account or student, faculty, staff, and other constituent presenting the identification;
iv. Other information on the identification is not consistent with readily accessible information that is on file with the university; and
v. An application appears to have been altered or forged, or gives the appearance of having been destroyed and reassembled.

c. Suspicious personally identifying information.

Examples of these Red Flags include, but are not limited to, the following:

i. Personally Identifying Information provided is inconsistent when compared against external information sources used by the university;
ii. Personally Identifying Information provided is associated with known fraudulent activity as indicated by internal or third-party sources used by the university;

iii. Personally Identifying Information provided is of a type commonly associated with fraudulent activity as indicated by internal or third-party sources used by the university;
iv. The SSN provided is the same as that submitted by another student, faculty, staff, or constituent;
v. The person opening the Covered Account fails to provide all required Personally Identifying Information on an application or in response to notification that the application is incomplete;
vi. Personally Identifying Information provided is not consistent with Personally Identifying Information that is on file with the university ; and
vii. When using security questions (mother's maiden name, pet's name, etc.), the person opening the Covered Account cannot provide authenticating information beyond that which generally would be available from a wallet or consumer report.

### d. Unusual use of, or suspicious activity related to, the Covered Account.

Examples of these Red Flags include, but are not limited to, the following:

i. Shortly following the notice of a change of address for a Covered Account, the university receives a request for new, additional, or replacement goods or services, or for the addition of authorized users on the account;
ii. A Covered Account is used in a manner that is not consistent with established patterns of activity on the account;
iii. A Covered Account that has been inactive for a reasonably lengthy period of time is used (taking into consideration the type of account, the expected pattern of usage and other relevant factors);
iv. Mail sent to the student, faculty, staff, or other constituent is returned repeatedly as undeliverable although transactions continue to be conducted in connection with the Covered Account;
v. The university is notified that the student, faculty, staff, or other constituent is not receiving account statements;
vi. The university is notified of unauthorized charges or transactions in connection with a Covered Account;
vii. The university receives notice from students, faculty, staff, or other constituents, victims of Identity Theft, law enforcement authorities, or other persons regarding possible Identity Theft in connection with Covered Accounts held by the university ; and
viii. The university is notified by a student, faculty, staff, or other constituent, a victim of Identity Theft, a law enforcement authority, or any other person that it has opened a fraudulent account for a person engaged in Identity Theft.

### 2. Responding to Red Flags

a. Once a Red Flag, or potential Red Flag, is detected, the university will endeavor to act quickly as a rapid appropriate response can protect students, faculty, staff, and other constituents and the university from damages and loss.
b. The university will quickly gather all related documentation, write a description of the situation, and present this information to the Program Administrator for determination.
c. The Program Administrator will complete additional authentication to determine whether the attempted transaction was fraudulent or authentic.

### 3. Responsive Action

If a transaction is determined to be fraudulent, appropriate actions will be taken immediately. Actions may include:

a. Canceling the transaction;
b. Notifying and cooperating with appropriate law enforcement;
c. Determining the extent of liability of the university; and
d. Notifying the student, faculty, staff, or other constituent that fraud has been attempted.

## F. Policies and Procedures to Protect Personally Identifying and Confidential Information

### 1.The following information, even though it may otherwise be considered public or proprietary, is often used in conjunction with confidential information to commit fraudulent activity such as Identity Theft:

a. Payroll information, such as paychecks and pay stubs.
b. Benefit enrollment forms and associated supporting documentation.
c. Medical information for any employee or customer, including but not limited to doctor names and claims, insurance claims, prescriptions and related personal medical information.

### 2. Distribution of Information

a. Hard Copy. In accordance with NMSU Institutional Data Security policy and rules, all university personnel should make efforts to secure data.
b. Electronic. The university regulates electronic distribution of confidential information under the following guidelines:
    i. NMSU Institutional Data Security Policy

ii. Information Stored on Computing Devices Policy
iii. Acceptable Use Rule

### 3. All university employees should comply with the following policies:

a. Confidential and other information commonly used in Identity Theft may only be transmitted using approved methods as defined by the Information and Communication Technology department.
b. Confidential and other information commonly used in Identity Theft in an electronic format must be protected from unauthorized access or disclosure at all times.
c. All e-mails containing confidential and other information commonly used in Identity Theft should include the following statement: "This message may contain confidential and/or proprietary information and is intended for the person/entity to which it was originally addressed. Any use by others is strictly prohibited."

## G. Application of Other Laws and University Policies

University personnel must make reasonable efforts to secure confidential and other information commonly used in Identity Theft to the proper extent. Furthermore, this section should be read and applied in conjunction with the Family Education Rights and Privacy Act ("FERPA") and other applicable laws and university policies. If an employee is uncertain of the confidentiality of a particular piece of information, he/she should contact the Program Administrator or the Office of General Counsel.

## H. Program Administration

### 1. Involvement of Management

a. Establishment of the Program is the responsibility of the university's Board of Regents. The board's approval of the initial plan must be appropriately documented and maintained.
b. Operational responsibility of the Program, including but not limited to the oversight, development, implementation, and administration of the Program, approval of needed changes to the Program, as well as periodic evaluation of the Program and implementation of needed changes to the Program, is delegated to the university's associate vice president for information technology as the Program Administrator. If deemed appropriate and necessary by the Program Administrator, an Identity Theft Committee will be established to assist with implementing, maintaining and updating the Program.

### 2. Employee Training

a. Training will be conducted for all employees for whom it is reasonably foreseeable, as determined by the Program Administrator, that the employee may come into contact with accounts or Personally Identifiable Information that may constitute a risk to the university or its students, faculty, staff, and other constituents.
b. The university's Office of Human Resources Services offices are responsible for ensuring that Identity Theft training is conducted for all employees for whom it is required.
c. Employees shall receive annual training in all elements of the Program.
d. To ensure maximum effectiveness, employees will continue to receive additional training as changes to the Program are made.

### 3. Oversight of Service Provider Arrangements

a. The university will endeavor to ensure that the activities of all service providers are conducted in accordance with reasonable policies and procedures designed to detect, prevent, and mitigate the risk of Identity Theft.
b. A service provider that maintains its own Identity Theft prevention program, consistent with the guidance of the Red Flag rules and validated by appropriate due diligence, may be considered to be meeting these requirements.
c. Any specific requirements will be specifically addressed in the appropriate contract arrangements.

## I. Updates

The Program Administrator will require a periodic review of the Program to reflect changes in risks to students, faculty, staff and other constituents, and the soundness of the university from Identity Theft. This review will consider the university's experiences with Identity Theft situations, changes in Identity Theft methods, changes in Identity Theft detection and prevention methods, and changes in the university's business arrangements with other entities. The review will also include an assessment of which accounts are covered by the Program, accuracy and completeness of Red Flags and actions taken when fraudulent activity is discovered. After considering these factors, the Program Administrator will determine whether changes to the Program are warranted. If warranted, the Program will be updated.

## J. Non Disclosure

For the effectiveness of this Program, knowledge about specific Red Flag identification, detection, mitigation and prevention practices may need to be limited to the Program Administrator and to those employees with a need to know them. Any documents that may have been produced or are produced in order to develop or implement this program that list or describe such specific practices and the information those documents contain are considered "confidential" and should not be shared with other university employees or the public. The Program Administrator shall inform those employees with a need to know the information of those documents or specific practices which should be maintained in a confidential manner.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 15 | Information Management and Data Security

**Rule Administrator:** Chief Information Security Officer

**Last Updated:** 10/05/2017

## Related

**Cross-Reference:**
**Revision History:**

*[Policy approved by the Administrative Council 07.14.09; policy adoption ratified by the Board of Regents 07.29.09]*

© 2017 New Mexico State University - Board of Regents

# Chapter 16 | Safety and Risk Management

## Subsections in Chapter 16

- 16.01 – Authority of the University Police Department
- 16.02 – Regulation of Security Alarm Systems
- 16.03 – Regulation of Security Cameras on University Premises
- 16.04 – Safety and Security at Public Events
- 16.05 – Safety and Security at Private Events
- 16.06 – Regulation of Firearms on NMSU Premises
- 16.07 – Protocols in the Event of Missing Student
- 16.09 – University Emergency Closures
- 16.10 – Emergency Preparedness and Response
- 16.11 – Emergency Notification System
- 16.12 – Clery Act Compliance
- 16.15 – Fire Safety, Prevention and Emergency Medical Services
- 16.16 – Regulation of Fires, Fireworks on NMSU Premises
- 16.20 – Awareness, Assessment and Response to Behaviors of Concern
- 16.21 – No Trespass Directive – Restricted Campus Access
- 16.30 – Authorization of Health and Safety Programs
- 16.31 – Reporting of Work-Related Accidents/Incidents
- 16.40 – Legal Matters
- 16.45 – Auditors, External
- 16.46 – Auditors, Internal – Audit Services
- 16.60 – Permitted Alcohol on NMSU Premises
- 16.63 – Smoking and Tobacco Use Restrictions

Go to RPM

ARP Crosswalk

Search for:

Search ...

Search

## ARP Contents

Chapters 1 – 5

Chapters 6 – 10

Chapters 11 – 15

Chapter 16 – 18

Appendices

Filter by Rule Administrator

Select

Submit

- 16.65 – Drug and Alcohol Free University Community
- 16.69 – University Related International Travel
- 16.70 – Education Abroad
- 16.75 – Unmanned Aircraft Systems ("Drones")
- 16.77 – Children in the Workplace
- 16.78 – Mandatory Reporting for Suspected Child Abuse, Sexual Misconduct, Domestic Violence, Dating Violence or Stalking
- 16.79 – NMSU Sponsored Youth Programs
- 16.85 – Parking and Traffic Regulations
- 16.86 – Traffic and Parking Regulations for Community Colleges

## ARP Maintenance

The Administrative Rules and Procedures (ARP) is maintained by **University General Counsel**.

Inquiries should be directed to **gencounsel@nmsu.edu**

ARP History

## Policy Maintenance

The Administrative Rules and Procedures of NMSU Manual is maintained by University General Counsel. Inquiries should be directed to **gencounsel@nmsu.edu**.

## Proposals Under Review

Proposals for new and revised rules are available to NMSU stakeholders on the UGC SharePoint site.

UGC SharePoint Site

## Related Sites

**University General Counsel**

**Regents Policy Manual**

**Business Procedures Manual**

**Other University Regulations**

**Board of Regents**

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 16.01 – Authority of the University Police Department

arp.nmsu.edu/16-01

## PART 1: PURPOSE

The University Police Department (University Police) is established to provide for the law enforcement and security needs of the NMSU System.

## PART 2: AUTHORITY

The University Police are authorized to act as is lawful and necessary to protect lives and property. This includes the evacuation of buildings and facilities, closing of streets, disapproval or canceling of events, and implementation of emergency procedures. The decisions of the chief of police shall be final in all emergency situations until the emergency is resolved.

The University Police have the duty and authority to enforce all applicable laws and regulations, issue citations, make arrests, investigate complaints, and make referrals for criminal prosecution. The University Police are also authorized to make administrative or disciplinary referrals to appropriate university officials of crimes/incidents for violations of university policy.

The University Police are authorized to issue reports, statistics, and compliance documents related to law enforcement and security. This includes publication of the Annual Security Report for the Las Cruces and Doña Ana Community College East Mesa campuses.

Departmental operational policies, procedures, rules and regulations governing the police department are set forth in the *New Mexico State University Police Manual of Policies and Procedures*.

## PART 3: SECURITY

The University Police are responsible for establishing and maintaining

requirements, policies, and procedures for any security personnel utilized in the NMSU system, whether as university employees or through contract. This includes any security officers, security guards, private investigators, bodyguards, and similar personnel who work on lands under the control of the Board of Regents.

The various NMSU entities, as well as private individuals or organizations, shall not retain, employee or otherwise utilize security officers, security guards, investigators, bodyguards, or similar personnel unless such is done in compliance with requirements and procedures established by the University Police. For purposes of this section, the term "utilize" includes direct employment, hiring via contract or purchase order, and unpaid or volunteer services.

The chief of police shall issue a letter of authorization for each entity authorized by the University Police to utilize security personnel. The chief (or designee) shall inspect hiring, training, and licensure credentials of all security personnel on a regular basis to ensure compliance.

Security duties requiring approval under this rule include, but are not limited to:

- Monitoring or controlling access to an area or facility;
- Investigating crimes or wrongs done against the State of New Mexico;
- Investigating incidents of theft, crashes, fires, losses, or injury;
- Locating stolen property;
- Securing evidence for use in criminal proceedings;
- Providing physical security measures for another individual; and
- Acting as a watchman to protect property or prevent theft

Specifically excluded from this rule are auditors, Title IX investigators, human resource personnel, student judicial affairs, and disciplinary hearing officers, to the extent they are acting within the scope of those positions.

## PART 4: CRIMINAL JUSTICE INFORMATION SERVICES SECURITY

The chief of police is designated as the official responsible for Criminal Justice Information Services (CJIS) security management within the university system. The chief shall establish policies, procedures, and regulations necessary to carry out the duties and responsibilities required by federal and state governmental entities with which NMSU maintains agreements for CJIS data access and sharing, which may include the adoption of federal guidelines, in whole or in part in lieu of developing independent policies, rules and

regulations. The chief will provide regular information compliance assurance to governing bodies and executive management in collaboration with NMSU's chief privacy officer. To the extent permitted by law, this authorization and responsibility supersedes any conflicting policies, rules, or procedures related to classified or unclassified CJIS data.

## PART 5: SPECIAL CONDITIONS RELATED TO POLICE PERSONNEL

In order to meet operational needs, the University Police are authorized, upon approval from the AVP of Human Resource Services or designee, to implement the following:

A. Compensation and benefits plans specific to police officers;
B. Altered work days and hours for personnel (e.g., 4 day x 10 hour work week);
C. Altered hours of business for different offices within the department;
D. Short-term closures of offices within the department to allow for audits, inventories, and training;
E. Altered probationary statuses for police officers to take into account basic academy training; and
F. Placement of police and security officers on special leave status in the event of certain types of incidents.

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 16 | Safety and Risk Management

**Rule Administrator:** NMSU Police Chief

**Last Updated:** 01/09/2019

## Related

**Cross-Reference:**

**Revision History:**

01/09/2019 Ammendment approved by Chancellor
2017 Recompilation, formerly Rule 2.53

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 16.02 – Regulation of Security Alarm Systems

arp.nmsu.edu/16-02

## PART 1: PURPOSE

This rule enhances the protection of people and property at the Las Cruces campus through implementation of a single, coordinated security alarm system. This rule, first adopted in 1999, established the initial guidelines for security alarm systems used on NMSU premises. All security alarms have been required to comply with this rule since July 1, 1999.

## PART 2: RULES

Information and Communication Technologies, Facilities and Services and the University Police Department will coordinate to establish and maintain security alarms (intrusion, panic, or personal safety) on the Las Cruces campus in accordance with the following guidelines:

A. All security alarms shall utilize a standardized system.
B. All intrusion, panic and personal safety alarms shall report directly to the University Police Department.
C. A reasonable fee may be charged by university administration to cover the maintenance costs, including staffing, associated with the ICT central system connection, the University Police Department's system which receives the stations, and the security alarm physical components.
D. To cover a portion of the costs associated with responding to false security alarms, a nominal fee will also be charged to the department or unit having control over the alarm for each false alarm, after the first false alarm in a six month period.
E. Reasonable notice will be given to the NMSU units about the specific rates (maintenance fee and false alarm fee) that will be charged, prior to commencement of the fee program authorized by this rule, and prior to subsequent changes in the fee(s), if any.

## Details

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 16 | Safety and Risk Management

**Rule Administrator:** Chief Information Officer

**Last Updated:** 01/09/2019

## Related

**Cross-Reference:**

**Revision History:**

01/09/2019 Amendment approved by Chancellor
2017 Recompilation, formerly Rule 2.35.1.3.9

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 16.03 – Regulation of Security Cameras on University Premises

arp.nmsu.edu/16-03

## A. Purpose

1. To enhance and protect public safety and property, while also respecting the privacy and other rights of those within the university community;
2. To manage the use of security cameras and related issues, throughout the NMSU System.

## B. Scope

1. Unless indicated in the following subsection on exceptions, this Rule applies to the installation and use of security camera systems on university premises throughout the NMSU System, whether installed by third party vendors or by authorized NMSU personnel.
2. **Exceptions – This Rule does not apply to**:
    a. The use of cameras or other electronic recording equipment to conduct academic research;
    b. The overt use of video and/or audio recording equipment utilized for video conferencing for academic or administrative purposes and/or to facilitate real time communication for the purpose of admitting personnel to secured facilities;
    c. The creation or use of class lecture recordings and/or archiving utilized not for security, but for the purpose of content sharing;
    d. The use of recording systems by the NMSU Police Department law enforcement personnel for specific criminal investigations or for recording individual Police Officer interaction.
    e. Cameras placed on a temporary basis for operational/administrative investigation into alleged misconduct, with the consent of one party to the communication, as approved by the Office of General Counsel.
    f. The overt use of video audio recording equipment placed to enhance safety and security of NMSU employees in the workplace.

g. Personal recording equipment, including but not limited to cell phone cameras, used by private individuals for purposes not associated with student or employee status.
h. The use of a computer attached camera (webcam) in a private office.

## C. Rule Administrator

This Rule shall be administered by the university's chief information officer (CIO) in consultation with the Police Chief and other University Administrators as needed.

## D. General Principles

1. Security cameras shall only be installed in compliance with this Rule.
2. Signage will be conspicuously posted in any area where security cameras are recording images.
3. Audio recording is only permissible for short duration, with the consent of one of the parties, consistent with applicable law; or as may be permitted by court order. The audio function (both monitoring and recording) of the security camera microphone must be disabled. *See Also* Exceptions in Section B. 2.
4. This Rule does not require the university to provide security cameras in all public locations, and/or to ensure that a camera is recording or monitoring at all times. Images may be monitored in real time, or may be preserved for review at a later date as part of an incident investigation. Any images retained will be disposed of in accordance with E-8 below: Storage and Retention of Recordings.
5. Security cameras will be installed, operated and monitored in compliance with all university policies and the law, including but not limited to those covering FERPA, HIPAA, discrimination, harassment and stalking. The use of security cameras authorized by this Rule will be limited to uses that do not violate a reasonable expectation of privacy, nor disclose confidential or classified information.

## E. Rule Guidelines

1. The installation and use of security cameras addressed in this Rule is for the general purpose of campus safety and security, including the deterrence of vandalism and theft.
    a. **Examples of areas which may be subject to monitoring by security cameras include but are not limited to**:
        i. outdoor parking lots;

ii. areas within buildings open to the public such as libraries, museum, Pan Am Center and Corbett Center;
iii. common areas inside residence halls;
iv. areas proximate to the handling of cash or other valuable property.

b. **Examples of areas that will not be subject to security camera monitoring include, but are not limited to**:
i. individually licensed living areas within residence halls or other NMSU housing, absent express consent from the affected license holder;
ii. restrooms;
iii. locker rooms;
iv. dressing rooms and similar space;
v. areas where restricted Department of Defense classified information is discussed, stored or otherwise processed.

2. Any interception, duplication, transmission, alteration, tampering, or other improper diversion of the security camera or recorded images or related instrumentation, software or documentation for purposes other than official university business is prohibited.
3. Personnel authorized to access security camera information, including the images they produce, will perform their duties in accordance with this Rule, in addition to any supplemental procedures which may be issued by the operating department.
4. All existing uses of security cameras will be brought into compliance with this Rule as soon as feasibly possible, and no later than June 30, 2015, unless otherwise determined by the CIO.
5. The NMSU entities utilizing security cameras governed by this Rule will notify the CIO annually to ensure compliance and will provide a list of security cameras currently in operation.
6. The use of security cameras by university contractors operating on university premises pursuant to a contract will be governed by the terms of the contract, consistent with NMSU policies, rules and procedures.
7. In the event of a criminal investigation, civil litigation or other administrative action, the recorded data will be maintained in accordance with guidance provided by the prosecutor and/or the Office of NMSU General Counsel.
8. Storage and Retention of Recordings: Recordings shall be retained for a minimum of thirty (30) calendar days. See also #3.

## F. Supplemental Procedural Guidelines

As authorized by RPM 1.10 and former **NMSU Policy 2.64**, Section F., the following Procedural Guidelines, issued on April 9, 2013, supplement the above ARP 16.03:

## 1. Justification and Approval

Individual NMSU Entities desiring to install security camera equipment shall submit a written request to their appropriate unit administrator, dean or vice president describing the proposed location of security camera (s), justifying the proposed installation, as well as identifying the funding source for purchase and ongoing maintenance. (*See* **Appendix ARP 16.03-A – Security Camera Proposal and Justification Form**).

a. Upon approval by appropriate administrator, dean or vice president, the Security Camera Proposal and Justification Form will be submitted to the CIO for information purposes and maintain a copy on-site.
b. The University's Chief Information Officer or designee is responsible to assure compliance with this rule.

## 2. Installation

Installation of all networked security cameras should be coordinated through Networking Services to ensure they are on a secure network and access is restricted.

a. All networked security cameras and related equipment should be configured to require two factor authentication (user IDs and passwords) and not use default or common logins.
b. Networking Services, Security Camera Coordinator and Facilities Services will collaborate to install network infrastructure to ensure all relating building codes are followed.
c. When appropriate, installing department is encouraged to seek the assistance of the ICT Computer Systems function to ensure proper system setup, configuration and to clearly identify location of software i.e. PC or Server.

## 3. Signage

Signage for security cameras shall be placed conspicuously in areas with cameras, as determined by the Chief Information Officer and consistent with requirements of ARP 12.06 Uniform Signage – Wayfinding.

## 4. Training

a. Authorized personnel responsible for security cameras shall receive a copy of this rule governing security cameras and provide written acknowledgement that they have read and understood the contents. (*See* **Appendix ARP 16.03-B, Security Camera Training Acknowledgment Form**)
b. Authorized personnel shall attend any meetings or trainings convened by the CIO.

## 5. Transitioning Security Cameras in Use Prior to Policy Effective Date

The use of existing security cameras shall comply with this rule's requirements for professional, legal and ethical use. To the extent that existing equipment or software make it infeasible to comply with technical requirements, the NMSU Entities shall proposed a transition plan to the CIO explaining the steps needed for compliance and a proposed timeline.

## 6. Unit Level Camera Security Operations

a. Unit Level Protocols Required: NMSU Entities will need to Develop Security Camera Protocols: All NMSU Entities responsible for security cameras governed by this rule shall develop and maintain written departmental policies and processes detailing operation of cameras and how tampering with, intercepting, or duplicating of recorded information will be prevented. Written protocols shall be no less stringent than those outlined in this rule.
b. Inventory and Documentation: Each NMSU Entity shall maintain a master inventory and associated documentation of all existing and approved components to their security camera, including but not limited to equipment, software and authorizations received. **Inventories must include but may not be limited to**:
    i. Name of responsible person for security cameras and review/approval date;
    ii. Name and contact information of the person requesting the installation and/or approval of the security camera;
    iii. List of authorized personnel and other members of management, by position and by name, who may be permitted access to the recorded images/information;
    iv. Purpose and justification for the proposed security camera, consistent with the permitted uses of this rule;
    v. Explanation of how the recorded information may be reviewed and/or used;
    vi. Measures that have been taken to minimize the impact on personal privacy;
    vii. Assertion that the planned installation and operation of the security camera system shall comply with applicable law and this rule;
    viii. Nature of the physical space in which the security camera will be placed, and a description of the types of activities reasonably likely to be captured on the recordings by the security camera;
    ix. Implementation details, including:
        - physical location of installation,
        - field of view of the camera(s),
        - capabilities of the camera(s) (video, audio, pan, tilt, zoom, etc.) or microphone(s) that have been disabled, and
        - the make and model of equipment and software;

- the location and the timing relating to storage and retention of the recorded information.

c. Acknowledgement of Training and Compliance Requirements: All authorized personnel, and supervisors involved in security camera operations, including the review of recorded images, will perform their duties in accordance with this rule and any supplemental procedures which may be issued by the University's Chief Information Officer. They shall each indicate acceptance of this responsibility by signing the Security Camera Training Acknowledgment Form (*See* **Appendix ARP 16.03-B**).

d. Maintenance of Log for Security Camera Recordings Access or Use: A log shall be maintained of all instances of access to or use of security camera recordings. At a minimum, the log shall include the date and identification of the person or persons to whom access was granted. (*See* **Appendix ARP 16.03-C, Sample Access Log Form**)

e. Prohibition of Tampering with Security Cameras: Security cameras shall be configured to prevent authorized personnel from altering or otherwise tampering with recorded information. Allegation of tampering with a security camera, software, or other instrument or documentation related to the administration of this rule will be treated seriously, investigated thoroughly and appropriate criminal, civil, or administration action taken.

## 7. Storage and Retention of Recordings

Recordings from all security cameras governed by this rule shall be stored by the individual NMSU Entities in accordance with the document retention requirements of the State of New Mexico, codified at NMAC 1.15.5 et seq, and also as directed by the NMSU Records Management and Retention Office, summarized below:

a. All administrative records relating to the Security Cameras program initiative, including training materials generated or utilized by it, shall be retained until the information value ceases, and then shall be transferred to Library Archives and Special Collections for review for further disposition;

b. Routinely recorded images shall be retained for a minimum of thirty (30) calendar days from the date of recording or creation.

c. Excepted from this retention rule are security camera images and any other program maintenance information when related to a criminal investigation or civil administrative or legal proceeding, or other *bona fide* use approved by the NMSU Police Chief and University General Counsel.

# Details

**Scope:** NMSU System
**Source:** ARP Chapter 16 | Safety and Risk Management

**Rule Administrator:** Chief Information Officer

**Last Updated:** 10/03/2017

## Related

**Cross-Reference:**

- Appendix ARP 16.03-A
- Appendix ARP 16.03-B
- Appendix ARP 16.03-C

**Revision History:**

10.21.15: BOR approved Policy 2.64 as initial Rule 2.64, and authorized incorporation of supplemental guidelines into Rule 2.64.

***Prior Revision History as Policy 2.64**: 04.09.13 adoption of new Policy 2.64 recommended by Administrative Council; 05.10.13 policy adopted by Board of Regents.*

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 16.04 – Safety and Security at Public Events

arp.nmsu.edu/16-04

## PART 1: PURPOSE

Consistent with the University Police Department's mission (ARP 16.01), this rule provides the criteria and procedural guidance for the evaluation, approval and staffing of events held on the NMSU – Las Cruces campus that will be open to the general public.

## PART 2: DEFINITIONS

A. **Event:** "Event" means any planned or encouraged gathering or activity for a specific purpose.
    1. "Event" does not include: academic classes, athletic team practices and meetings, departmental meetings, and regular meetings of chartered student organizations.
    2. "Event" does not include promotions that invite the public, but are normally offered services, such as a promotional sale on clothing at a retail outlet or a special menu at an eatery, so long as normal seating or capacity limits are not exceeded and the promotion takes place solely within the confines of the normal location.
B. **Police Personnel**: "Police Personnel" includes police officers, security officers, emergency service dispatchers, and other security-related staff employed by, or under the direction of, the university police department.
C. **Public Event**: "Public Event" means one that is advertised to and/or open to the general public to attend, regardless of whether paid admission is required for entry.

## PART 3: REQUIREMENTS FOR POLICE PERSONNEL

Public Events will require staffing by Police Personnel. Sponsors of Public Events must seek a safety/security evaluation and approval for their proposed event at least 10 business days (Monday-Friday, 8:00 am to 5:00 pm) prior to

the event taking place. University Police Department staff will determine the Police Personnel staffing requirements. Reasonable effort will be made to work with event sponsor/promoters to achieve consensus; in the event of any dispute, the Chief of Police will make the final decision.

A. **Basic Criteria**: The following basic criteria will be applied to determine the requisite Police Personnel for each Public Event:
    1. Alcohol sales: Public Events where alcohol is served or sold requires staffing by Police Personnel. There must be at least one security or police officer at each alcohol sales/dispensing location, and one at each entrance/exit, regardless of crowd size. Police Personnel staffing associated with the other factors are in addition to this requirement.
    2. Number of Attendees Exceeds 250: A Public Event with more than 250 attendees possible (based on venue size) or expected (based on ticketing) requires a minimum of one security officer or police officer. Police Personnel staffing associated with the other factors are in addition to this requirement.
    3. Number of Attendees Exceeds 1,250: A Public Event with more than 1,250 attendees possible (based on venue size) or expected (based on ticketing) requires enhanced security measures, including but not limited to: fenced enclosures (if outdoors), pre-entry screening, bag searches, police officers patrolling parking lots. Police Personnel staffing associated with the other factors are in addition to this requirement.
B. **Additional Relevant Factors**: In addition to the above, the following factors will be considered as part of the safety/security evaluation and approval for a proposed Public Event:
    1. The venue's size and proximity to sensitive locations (e.g., housing or research facilities);
    2. The number and location of entrances/exits at the venue;
    3. Whether there is reserved seating or general admission ticketing;
    4. Time of day/night the event will be held;
    5. Amount of time needed to properly secure the venue before the event;
    6. The length of the event;
    7. Whether a fee will be charged for entry, goods, or services;
    8. The presence of large numbers of unattended minors (under the age of 18) and children;
    9. Presence, or lack thereof, of trained crowd managers;
    10. Whether street or parking lots closures and traffic control will be needed (e.g., for a parade, carnival, or race); and
    11. Presence or use of potentially dangerous materials or weapons as

part of the event, including firearms, cannons, hazardous chemicals, explosives.

C. **Specific Security Requests from Event Sponsors**: Additional security requests and requirements may be made by an event sponsor, who will bear the costs for such requests. This includes traffic control, escorts, bodyguard or VIP protection details, use of magnetometers, pat-downs, etc.

## PART 4: PAYMENT FOR POLICE PERSONNEL SERVICES

A. **Non-University Event Sponsors:** Non-university event sponsors are required to pay in advance of the event for facility use/rental (ARP 12.70) and for Police Personnel services required by the university. The cost of police personnel is based on the rate structure published at nmsupolice.com/events. Estimates or price quotes for the use of facilities may be obtained in advance by contacting the appropriate coordinating entity (i.e., Campus Activities, Conference Services, or Pan Am Special Events), and payment should be made to the same. Requests for waivers of the advance payment requirement will be evaluated on a case-by-case basis.

B. **University Sponsors**: University sponsors of Public Events will be billed for Police Personnel and services upon the conclusion of the event. These may be billed directly to the sponsoring department, or through a coordinating/consolidating department like Pan Am Special Events, depending on the arrangements made in advance of the event.

## Details

**Scope:** NMSU-Las Cruces

**Source:** ARP Chapter 16 | Safety and Risk Management

**Rule Administrator:** NMSU Police

**Last Updated:** 01/09/2019

## Related

**Cross-Reference:**
ARP 12.70 – Use of NMSU Facilities

ARP 16.05 – Safety and Security at Private Events

ARP 16.01 – University Police

ARP 3.63 – Free Expression on Campus

ARP 18.81 – Tailgating Activities

**Revision History:**

01/09/2019 Rule adopted by Chancellor

---

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 16.05 – Safety and Security at Private Events

arp.nmsu.edu/16-05

## PART 1: PURPOSE

Consistent with the University Police Department's mission (ARP 16.01), this rule provides the criteria and procedural guidance for the evaluation, approval and staffing of Private Events held on the NMSU – Las Cruces campus.

## PART 2: DEFINITIONS

A. **Event**: "Event" means any planned or encouraged gathering or activity for a specific purpose. "Event" does not include: academic classes, athletic team practices and meetings, departmental meetings, and regular meetings of chartered student organizations.
B. **Police Personnel**: "Police Personnel" includes police officers, security officers, emergency service dispatchers, and other security-related staff employed by, or under the direction of, the university police department.
C. **Private Event**: "Private Event" means one that is restricted to a guest list or invitation, and has not been advertised nor is open to members of the general public. Advertising an Event or the sale of tickets indicates that an Event is a Public Event subject to ARP 16.04.

## PART 3: REQUIREMENTS FOR POLICE PERSONNEL

Private Events may require staffing by Police Personnel. Sponsors of Private Events must seek a safety/security evaluation and approval for their proposed event at least 10 business days (Monday-Friday, 8:00 am to 5:00 pm) prior to the event taking place. University Police Department staff will determine the Police Personnel staffing requirements. Reasonable effort will be made to work with event sponsor/promoters to achieve consensus; in the event of any dispute, the Chief of Police will make the final decision.

A. **Basic Criteria**: The following basic criteria will be applied to determine

the requisite Police Personnel for each Private Event:

1. Alcohol sales: Private Events where alcohol is served or sold requires staffing by Police Personnel. There must be at least one security or police officer for every 100 people present. Police Personnel staffing associated with the other factors are in addition to this requirement.
2. Number of Attendees Exceeds 500: A Private Event with more than 500 attendees possible or expected (based on venue or invitations) requires a minimum of one security officer or police officer. Police Personnel staffing associated with the other factors are in addition to this requirement.
3. Number of Attendees Exceeds 1,250: A Private Event with more than 1,250 attendees possible or expected (based on venue or invitations) may be required to implement enhanced security measures, including but not limited to: fenced enclosures (if outdoors), pre-entry screening, bag searches, police officers patrolling parking lots. Police Personnel staffing associated with the other factors are in addition to this requirement.

B. **Additional Relevant Factors**: In addition to the above, the following factors will be considered as part of the safety/security evaluation and approval for a proposed Private Event:

1. The venue's size and proximity to sensitive locations (e.g., housing or research facilities);
2. The number and location of entrances/exits at the venue;
3. Time of day/night the event will be held;
4. Amount of time needed to properly secure the venue before the event;
5. The length of the event;
6. The presence of large numbers of unattended minors (under the age of 18) and children;
7. Presence, or lack thereof, of trained crowd managers;
8. Whether street or parking lots closures will be needed (e.g., for a parade, carnival, or race); and
9. Presence or use of potentially dangerous materials or weapons as part of the event, including firearms, cannons, hazardous chemicals, explosives.

C. **Specific Security Requests from Event Sponsors**: Additional security requests and requirements may be made by an event sponsor, who will bear the costs for such requests. This includes traffic control, escorts, bodyguard or VIP protection details, use of magnetometers, pat-downs, etc.

## PART 4: PAYMENT FOR POLICE PERSONNEL SERVICES

A. **Non-University Event Sponsors**: Non-university event sponsors are required to pay in advance of the event for facility use/rental (ARP 12.70) and for Police Personnel services required by the university. The cost of police personnel is based on the rate structure published at nmsupolice.com/events. Estimates or price quotes for the use of facilities may be obtained in advance by contacting the appropriate coordinating entity (i.e., Campus Activities, Conference Services, or Pan Am Special Events), and payment should be made to the same. Requests for waivers of the advance payment requirement will be evaluated on a case-by-case basis.
B. **University Sponsors**: University sponsors of Private Events will be billed for Police Personnel and services upon the conclusion of the event. These may be billed directly to the sponsoring department, or through a coordinating/consolidating department like Pan Am Special Events, depending on the arrangements made in advance of the event.

## Details

**Scope:** NMSU-Las Cruces

**Source:** ARP Chapter 16 | Safety and Risk Management

**Rule Administrator:** NMSU Police Chief

**Last Updated:** 01/09/2019

## Related

**Cross-Reference:**
ARP 12.70 – Use of NMSU Facilities

ARP 16.04 – Safety and Security at Public Events

ARP 16.01 – University Police

ARP 3.63 – Free Expression on Campus

**Revision History:**

01/09/2019 Rule adopted by Chancellor

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 16.06 – Regulation of Firearms on NMSU premises

arp.nmsu.edu/16-06

## A. Purpose

To clarify New Mexico state law requirements relating to the carrying of Firearms on university premises, and to authorize supplemental university policy requirements, for the protection of the public's health, safety and welfare.

## B. Definitions

The following definitions will apply for purposes of application and enforcement of this policy:

1. **"Peace Officer"**: A peace officer means any public official or public officer vested by law with a duty to maintain public order or to make arrests for crime, whether that duty extends to all crimes or is limited to specific crimes;
2. **"University Premises"**: University premises includes both:
    a. The buildings and grounds of the university, including playing fields and parking areas of a university, in or on which university or university-related activities are conducted; and
    b. Other public buildings or grounds, including playing fields and parking areas that are not university property, in or on which university-related and sanctioned activities are performed.
3. **"Firearm"**: A weapon, or component thereof, defined under state or federal law as a firearm. This includes complete firearms, as well as components considered to be firearms, such as receivers, sound suppressors, and destructive devices.

## C. Policy Statement(s)

1. No person of any age shall carry a Firearm on University Premises or in a university vehicle, unless they qualify under one or more of the following exceptions, and meet any additional requirements of the University Police Department:
    a. a Peace Officer;
    b. security personnel authorized by the University Police Chief or designee;
    c. a student, instructor or other university-authorized personnel who are engaged in army, navy, marine corps or air force reserve officer training corps programs or a state-authorized hunter safety training program;
    d. a person conducting or participating in a university-approved program, class or other activity involving the carrying of a Firearm; or
    e. a person older than nineteen years of age on University Premises in a private automobile or other private means of conveyance, for lawful protection of the person's or another's person or property.
2. To enhance public safety on NMSU campuses, the Board of Regents authorizes the University Chief of Police to promulgate reasonable standards or other requirements for the individuals permitted by one of the exceptions above to carry a Firearm on University Premises or in university vehicles, including but not limited to background checks, training, and safety measures. Such standards and other requirements shall be posted conspicuously on the website of the University Police Department.

## D. Procedural Guidelines

To facilitate the administration and enforcement of this policy, and in addition to any reasonable standards and requirements which may apply to those entering university premises with a Firearm, the policy administrator may develop and issue supplemental Procedural Guidelines (includes protocols, forms, permits, etc.), consistent with the policy. All procedures, forms, permits etc. utilized in the application or enforcement of this policy shall be posted on the University Police Department's website, and shall be linked from this section. Other related reference material relating to Firearms on public property may also be linked from this Section with the approval of the policy administrator.

## E. Standards and Requirements for Firearms on University Premises

As authorized by **RPM 1.10** and **RPM 16.67**. the following standards and requirements issued December, 2015 by the NMSU Police Department provide supplemental guidance:

## 1. Applicable Statute: Section 30-7-2.4 NMSA 1978, et seq Unlawful carrying of a firearm on university premises; Notice; Penalty

a. Unlawful carrying of a Firearm on University Premises consists of carrying a Firearm on University Premises except by:
   i. a Peace Officer;
   ii. university security personnel;
   iii. a student, instructor or other university-authorized personnel who are engaged in army, navy,
   marine corps or air force reserve officer training corps programs or a state-authorized hunter safety
   training program;
   iv. a person conducting or participating in a university-approved program, class or other activity involving the carrying of a Firearm; or
   v. a person older than nineteen years of age on University Premises in a private automobile or other private means of conveyance, for lawful protection of the person's or another's person or property.

b. A university shall conspicuously post notices on University Premises that state that it is unlawful to carry a Firearm on University Premises.

c. As used in this section:
   i. "**university**" means a baccalaureate degree-granting post-secondary educational institution, a community college, a branch community college, a technical-vocational institute and an area vocational school; and
   ii. "U**niversity Premises**" means:
      - the buildings and grounds of a university, including playing fields and parking areas of a university, in or on which university or university-related activities are conducted; or
      - any other public buildings or grounds, including playing fields and parking areas that are not university property, in or on which university-related and sanctioned activities are performed.

d. Whoever commits unlawful carrying of a Firearm on University Premises is guilty of a petty misdemeanor

## 2. The following shall clarify the requirements for each of the above exceptions listed in G. I. A. 1-5 above

a. **Peace Officer**: Currently employed peace officers who are on duty with their respective agencies are allowed to carry Firearms on University Premises. Officers who are not on duty may carry Firearms on University Premises if allowed by their parent agency policies and procedures, and under the condition that they also have proper identification and that the Firearm remains concealed at all times. Off-duty officers attending special events are encouraged to check-in with the police event supervisor prior to entering. Off-duty officers who are living in campus housing must obtain approval from both the NMSU Housing and Residence Life Director and the NMSU Police Chief prior to being allowed to keep a Firearm in the residence.
b. **Security Personnel**: Only security personnel employed by the university are allowed to carry a Firearm on campus, and only when they are on duty, reporting for duty, or leaving duty. Security personnel may only carry a Firearm if they have successfully completed a background check conducted by the NMSU Police Department, psychological exam, medical exam, and Firearms training program (as specified by the NMSU Police Department). Security personnel authorized to carry a Firearm must complete at least 4 hours of refresher training each year, and must qualify with the Firearm annually. Only university-authorized Firearms may be carried by security personnel. Any discharge of a Firearm while on University Premises (outside of designated training) must be immediately reported to the NMSU Police Department. Security personnel who are living in campus housing must obtain approval from both the NMSU Housing and Residence Life Director (or the appropriate facility supervisor if not part of campus housing) and the NMSU Police Chief prior to being allowed to keep a Firearm in the residence.
c. **Classes, Hunter Safety Programs, and ROTC programs**: Any classes, hunter safety programs, and ROTC training involving the use of a Firearm(s) on University Premises must be registered with and approved by the university prior to being conducted. The instructor will be required to submit a Firearm safety plan for review and approval prior to the event being approved. The safety plan shall include measures that will be taken to ensure Firearms and ammunition are controlled at all times, the names of the individuals who will be responsible for supervision, the ratio of students to instructors/safety officers (may not exceed 6:1), emergency procedures that will be followed in the event of an injury or accidental discharge, and locations of any live firing. Any discharge of a Firearm while on University Premises (outside of designated training) must be immediately reported to the NMSU Police Department.
d. **University-approved programs, classes, or other activities involving the carrying of a Firearm**: In order to be considered approved by the

university, programs, classes, and other activities involving the carrying of a Firearm must be registered with and approved through the Department of Campus Activities, with approval by the NMSU Chief of Police.

i. Academic classes involving the use of a Firearm must also have the approval of the Provost or Vice President for Academic Affairs of the particular campus.
ii. Other programs sponsored by the university must also have the approval of the appropriate Dean, Director, or Vice President overseeing the sponsoring unit.
iii. All programs and activities must submit a safety plan for approval by the Chief of Police, and participants may only have a Firearm on University Premises immediately prior to, during, and immediately after the authorized activity.
iv. Firearms may not be possessed in other parts of University Premises except as necessary for transportation to and from the authorized activity. During transportation to and from the activity, the Firearms shall be unloaded and locked inside approved containers.
v. All participants shall undergo a fingerprint background check conducted by the NMSU Police Department prior to being allowed to bring a Firearm onto University Premises for the purpose of participating in authorized university activities, and may be issued an authorization/identification card by the NMSU Police Department that must be kept on their person when utilizing a Firearm on campus.
vi. Instructors or supervisors of authorized activities are responsible for ensuring the safe operation of Firearms at all times.
vii. Any discharge of a Firearm while on University Premises (outside of designated training) must be immediately reported to the NMSU Police Department.
viii. **For employees of the university who may be required to carry a Firearm in order to carry out their duties, there are additional requirements:**
    - Such employees must successfully complete an annual fingerprint background check conducted by the NMSU Police Department, as well as successfully complete an initial training program that is appropriate for the nature of their work with a Firearm, annual refresher training, and annual qualifications.
    - Such employees must register the Firearms that will be used with their supervisor, and the supervisor shall retain copies of

all registration and training records for the length of employment plus three years.
    - Individuals authorized under this section and who are living on University Premises must obtain approval from both the NMSU Housing and Residence Life Director (or the appropriate facility supervisor if not part of campus housing) and the NMSU Police Chief prior to being allowed to keep a Firearm in the residence.

ix. Firearms may not be transported inside university-owned vehicles unless approval has been
obtained from the appropriate Dean, Director, or Vice President, and a safety plan for securing the Firearm(s) has been approved by the NMSU Police Chief.

e. **Carrying a Firearm inside a private vehicle by individuals older than 19 years of age**: Individuals may have Firearms inside their vehicles while on University Premises, but shall not take them out of the vehicle nor brandish them while on University Premises. Anyone already prohibited by law from possessing a Firearm is prohibited from having one in their vehicle.

f. **Additional Penalties**: Violations of the above may result in criminal charges, as well as disciplinary
charges for students and employees. Individuals violating the above may also be removed from
University Premises and barred from re-entry.

g. **Limitations**: These standards and requirements do not apply to lands owned by the Board of Regents, but leased to another party and no longer under the operational control of the Board of Regents, unless specifically stated otherwise in the terms of the lease.

h. **Inquiries**: For questions regarding these standards and regulations, contact: NMSU Chief of Police; PO BOX 30001 / MSC 3187; University Park, NM 88003-800;(575) 646-3311; **police@nmsu.edu**.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 16 | Safety and Risk Management

**Rule Administrator:** NMSU Police Chief

**Last Updated:** 10/21/2015

## Related

**Cross-Reference:**
**RPM 1.10 – NMSU System Policies and Procedures**

**RPM 16.67 – Firearms on University Premises**

**Revision History:**

11/20/2018 Renumbered, formerly 16.67
2017 Recompilation, formerly Rule 3.50
10/21/2015 former Policy 2.64 replicated by Board of Regents as initial Rule 2.64
07/21/2015 Amendment approved by Board of Regents

---

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 16.07 – Protocols in the Event of Missing Student

arp.nmsu.edu/16-07

## A. Purpose

To maximize the use of all available university resources and information, in order to facilitate and expedite the search for a Residential Student reported or suspected to be missing; to provide rules and procedures, in compliance with the federal Clery Act, as amended by the Higher Education Opportunity Act of 2008.

## B. Definitions

1. **"Residential Student"**: For purposes of this Rule, a residential student is one who resides in on-campus housing, under a housing contract, and is currently enrolled at the University.
2. **"Missing Resident Student"**: A missing residential student means a residential student whose whereabouts are unknown to the Office of Housing and Residential Life, roommate or immediate family member and the circumstances of whose absence indicate that:
    a. The student did not voluntarily leave the housing unit, residence hall or campus (excludes involuntary escort by law enforcement); or
    b. The student voluntarily left the housing unit, residence hall or campus, but indicated an intent not to return. (For example, belongings are missing or student made comment indicating intent to harm self.)

## C. Rule

It is the Rule of the university to coordinate the resources available from various campus offices in order
to expedite the location of any resident student suspected or reported to be missing, consistent with the notification and reporting requirements of the federal Clery Act and corresponding regulations.

1. Upon entering into the housing contract, or as part of the housing check in process, the resident student, or parent or guardian if student is a minor, shall sign an acknowledgment of receipt of this Rule.
2. Upon entering into the housing contract, or at the time of the housing check in process, the Residential Student shall be given the opportunity to confidentially identify one or more “missing person contact”, whom the campus will attempt to contact immediately, and in no case later than 24 hours after the student is deemed missing. The confidential missing person contact may be a person other than the next of kin Emergency Contacts provided via MyNMSU pursuant to **ARP 16.11 Emergency Notification System** for general emergencies. The student, or guardian if the student is a minor, is responsible for ensuring that the all emergency notification contact information, including any distinct missing person contact, is up-to-date and accurate.
3. The Office of Housing and Residential Life will collect and maintain the confidential missing person contact information, which may be shared with others in furtherance of a missing person investigation. The information may be stored electronically in a manner that integrates the “missing person contact” with campus records system(s), to facilitate mutual access by staff of student affairs, housing and university police.
4. If the Office of Housing and Residential Life or the NMSU Police Department deems any Residential Student to be missing, university administration shall be notified as soon as possible under the circumstances.
5. If a Residential Student under 18 years of age and not emancipated is deemed missing, the NMSU police chief or designee shall notify the confidential missing person contact and the custodial parent or guardian not later
than 24 hours after the time that the student was deemed missing.
6. This Rule and accompanying procedures are not intended to limit or prohibit law enforcement personnel from contacting anyone they may deem necessary as part of their missing person investigation.

## D. Procedures

1. Any student, staff or faculty member or other person who receives a report that a Residential Student may be missing, or has a reasonable suspicion based on personal knowledge of the student’s schedule and habits to conclude that the person has involuntarily disappeared, shall immediately notify either the Office of Housing and Residential Life or the NMSU Police Department. The report should not be delayed in the hope the person will return. There is no requirement to wait 24 hours to report

that someone is suspected to be missing, and in fact, such a delay can be detrimental to search efforts.

2. The office or department receiving a report of a suspected Missing Resident Student shall notify the other in order to clarify and expedite the assignment of responsibilities. The office or department receiving such a report shall notify the Office of the Dean of Students, and keep that office informed about the status.
3. All students and employees shall cooperate with preliminary inquiries by the Office of Housing and Residential Life or other NMSU department personnel, as well as with law enforcement personnel, should a criminal investigation become necessary. A failure to cooperate may result in disciplinary action, as may be appropriate, based on the circumstances, including any adverse impact caused by the lack of cooperation. A failure to cooperate with law enforcement personnel may also result in criminal charges as appropriate.
4. NMSU housing staff will conduct preliminary inquiries, in accordance with the departmental protocol that the Office of Housing and Residential Life has promulgated for such incidents. (See Housing and Residential Life). During the preliminary inquiry stage, Housing staff may utilize available university resources and information, including but not limited to the University Student Records Office, the Dean of Students, Parking and Transportation, to facilitate and expedite verification of the student's whereabouts. If housing personnel are not able to speak with the student or to otherwise verify the student's whereabouts within 3 hours from the first report or suspicion that the student might be missing, the matter will be reported to the NMSU Police Department for a formal missing person investigation.
5. Consistent with applicable New Mexico law, the NMSU Police shall conduct a missing person investigation, and if necessary, shall be given access to university resources and information, including but not limited to the University Student Records Office, Dean of Students, Parking and Transportation, Housing and Residential Life.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 16 | Safety and Risk Management

**Rule Administrator:** NMSU Police Chief

**Last Updated:** 06/23/2011

## Related

**Cross-Reference:**
**ARP 16.11 – Emergency Notification System**

**Revision History:**

11/20/2018 Renumbered, formerly 16.22
2017 Recompilation, formerly Rule 3.100
06/23/2011 Policy adopted by Board of Regents

---

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 16.09 – University Emergency Closures

arp.nmsu.edu/16-09

New Mexico State University's system of academic activity and community services at its campuses, facilities and services throughout the state require certain services and facilities to remain open, notwithstanding inclement weather and other unforeseen events. When weather conditions are such that the safety or security of NMSU students, personnel, property or operations may be at risk, the affected NMSU campus or facility may be closed in accordance with this rule or other emergency preparedness policies, rules and procedures.

## PART 1: RULES

A. **Planning for Closures**: Administrators of services and facilities that provide essential services (e.g. university police, fire and emergency medical services, information and technological services, facilities, and housing) remain operational during university closures and maintain Continuity of Operations plans to maintain their operations and services. (ARP 16.10 – Emergency Preparedness and Response) All NMSU entities are also required to designate which of their personnel are Essential Personnel for purposes of maintaining continuity of operations.
B. **Unforeseen Closures**: When inclement weather or other unforeseen emergency affects a campus or large facility, the appropriate campus president in coordination with the NMSU chancellor will determine, based on input from police, facility directors and other support staff, whether or not to close the affected NMSU facility or campus.

## PART 2: PROCEDURES

A. **Planning for Closures**: Each NMSU Entity as defined in ARP 16.10 Emergency Preparedness and Response is required to develop and maintain Continuity of Operations Plan (CoOP). Essential Personnel are defined in that rule as those employees who perform job duties or functions deemed by their unit's administrative head to be critical to

operations. Essential Personnel are required to work and/or to be available to work in the event of any emergency and especially during emergencies of extended duration.

B. **Unforeseen Closures**:
    1. **Decision to Close**: The president for each affected campus will communicate directly with the appropriate emergency and other personnel, in coordination with the chancellor, to make the decision to close, in the best interest of the university, including students, employees, property and functions.
    2. **Closure Notification**: Whenever a facility or campus is closed due to inclement weather or other emergency, details about the closure (e,g. geographic location(s), campuses or classes affected, time frames etc) will be communicated to affected university personnel and local news agencies. Whenever a local school system closes due to inclement weather while the university campus associated with the school district remains open, university officials will communicate to university personnel that the university campus is remaining open.
    3. **Re-Open Notification**: When inclement weather conditions or other emergent situation have subsided and the university returns to normal operations, university officials will communicate to affected university students, personnel and local news agencies the date and time of the reopening of the university.
    4. **Employee Leave or Compensation During Closures**:
        a. Nonexempt employees required to work during the closure will be paid in accordance with the university's closure pay policy.
        b. When an NMSU facility or campus is closed due to inclement weather or other unforeseen event, regular non-exempt employees who are not Essential Personnel required to work during the closure period should report the hours they would have worked but for the closure as "other leave taken", which is paid leave.
        c. Employees who do not accrue leave will be placed on leave without pay status, and may make up missed work hours, with the concurrence of their supervisor.
        d. If the inclement weather or event causing the closure causes an employee to be unable to report to work when the facility or campus remains open may request annual leave from their immediate supervisor (*see***ARP 8.40 Types of Authorized Leaves of Absence (LOA)**). In these instances, employees who do not accrue leave will be placed on a leave without pay status.

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 16 | Safety and Risk Management

**Rule Administrator:** Campus Presidents

**Last Updated:** 01/28/2019

## Related

**Cross-Reference:**
**ARP 8.40 – Types of Authorized Leave of Absence (LOA)**

**ARP 16.10 – Emergency Preparedness and Response**

**ARP 7.21 – University Closure Pay**

**Revision History:**

01/28/2019 Companion Revision to new ARP 7.21, approved 01/28/2019 by Board of Regents
11/19/2018 Renumbered, formerly 14.99
2017 Recompilation, formerly Rule 2.94
09/17/2010 Amendment approved by Board of Regents

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 16.10 – Emergency Preparedness and Response

arp.nmsu.edu/16-10

## PART 1: PURPOSE

To facilitate compliance with state and federal laws relating to emergency preparedness and response, by clarifying the Board of Regents' delegation of authority relating to emergency planning and preparedness and to disaster consequence and recovery management functions. These delegations include authorization of NMSU personnel to plan and take action as necessary for the protection of the university community and university assets, in the face of potential and actual emergencies; this rule is not intended to limit in any way the authority granted by state or federal law to public safety entities and their employees and representatives who may be serving as incident commanders or other emergency responders. The actual emergency operational protocols to be followed in the field by the incident commander(s) and emergency responders are not within the scope of this rule. *See* All Hazards Emergency Operations Plan(s).

## PART 2: DEFINITIONS, ROLES AND RESPONSIBILITIES

A. **AHEOP** is an All Hazards Emergency Operations Plan which is required to be developed and maintained by each NMSU Component to maximize the preparedness for unforeseen emergencies, including coordination with police, fire and emergency medical service providers who might be involved in the event of such emergencies.
B. **CART** is the university's "Central Administration Response Team", which serves the entire NMSU System, and consists of the NMSU Chancellor and other executive management personnel. *See Part 4. A. below.*
C. **Communicable Disease Preparedness Committee** is the committee that, in conjunction with the Emergency Planning Committee, is responsible for planning and preparedness regarding Continuity of Operations, health disasters, and other disasters of long duration. This committee works directly with the various NMSU entities to accomplish

this planning and preparedness.

D. **CoOP** is the Continuity of Operations Plan, which is plan developed by each NMSU Entity to identify its essential mission(s), and the mechanisms for continuing to achieve them during an emergency. Each CoOp should provide the information necessary to enable the NMSU Entity's personnel to operate in a variety of circumstances, such as from a remote site, without electricity, without computer connections, etc. *See Part 4, E. below.*
E. **CRT** is the Component Response Team, which is a team of key administrative leaders designated by each NMSU Component whose responsibility is to make decisions relating to disaster/emergency consequence and recovery management for that component. The CRT for the NMSU-Las Cruces Component consists of the same membership as that of the CART.
F. **Disaster** means a sudden event, such as an accident or a natural catastrophe that causes or has the potential to cause great damage or loss of life.
G. **EAP** is an Emergency Action Plan required by the Occupational Safety and Health Act, administered by the U.S. Department of Labor, to notify employees, students and/or volunteers of what to do in the event of a potential or actual emergency, including emergency training exercises. The EAP communicates emergency information in advance of an emergency and explains how to report a fire or other emergency, provides an evacuation route and reunification location, as well as protocols to ensure that all persons associated with each NMSU Entity are accounted for. *See Part 4. D. below.*
H. **Emergency** means a serious, unexpected, and often dangerous situation requiring immediate action.
I. **Emergency Planning Committee** means the standing university board (*See* **Official List of University Boards)** that advises and provides recommendations to the NMSU Chancellor regarding emergency planning and preparedness for the system, the CART and the CRTs, particularly related to the All Hazards Emergency Operations Plan.
J. **Emergency Responder** means an employee or representative of a public safety entity who performs duties to save lives or property and/or to preserve order during an emergency. Emergency responders include the first responders, any non-NMSU involved public safety entities, and the official(s) designated to serve as the Incident Commander(s).
K. **Essential Personnel** means those employees who perform job duties or functions deemed by the administrative head of their NMSU Entity to be critical to operations. Essential Personnel are required to work, and/or to be available to work, in the event of any emergency, and especially during emergencies of extended duration.

L. **External Entity** means any non-NMSU entity or agency located on NMSU premises, as a tenant or a business partner.
M. **Incident Commander** is the person (or in unified command, the people) who are appropriately trained and responsible for decision making during the on-scene emergency resolution.
N. **NMSU Component** refers to the NMSU-Las Cruces campus; to the community college campuses (Alamogordo, Carlsbad, Doña Ana and Grants); as well as to the New Mexico Department of Agriculture, which has a dual reporting line to the NMSU Board of Regents and to the Governor.
O. **NMSU Entity**, sometimes also referred to as "unit", refers to a college, a department or any other individual administrative unit within the NMSU System, including but not limited to agricultural experiment stations.

# PART 3: RULES

## A. Membership and Authority of the Campus Administrative Response Team ("CART")

1. The membership of the university system's Campus Administrative Response Team, commonly referred to as the "CART", is determined by the NMSU Chancellor, in consultation with the Emergency Planning Committee.
2. The membership of the CART is reflected in the AHEOP that covers the NMSU-Las Cruces and Doña Ana Community College campus located on the NMSU-Las Cruces campus.
3. The primary responsibility of the CART is to make decisions and carry out directives relating to disaster/emergency consequence and recovery management.

## B. The CART's Resources Group

The primary responsibilities of the members of the CART Resources group are those associated with service as either an Incident Commander or an Emergency Responder as part of the active resolution of the emergent circumstances, and to provide information when feasible and as requested to the CART. The current membership of the CART Resources Group is reflected in the AHEOP that covers the NMSU-Las Cruces and Doña Ana Community College campus located on the NMSU-Las Cruces campus.

1. The CART's Resources group shall be available as a resource for the other campuses and facilities within the NMSU system.
2. **The CART's Resources group typically includes, and is not limited to**

**the following areas**:

a. NMSU Police Department
b. NMSU Fire Department
c. Environmental Health and Safety
d. Facilities Operations and Utilities
e. Information and Communication Technology
f. News and Media Relations
g. Campus Health Services
h. Counseling Services
i. Housing and Residence Life
j. VPR Biosafety Officer

## C. Emergency Planning and Preparedness/All Hazards Emergency Operations Plan (AHEOP)

1. Each NMSU Component, as defined above, shall develop and maintain an All Hazards Emergency Operations Plan (AHEOP) to guide responders, administration, and that Component's community during emergency situations. Each AHEOP shall identify and address the common hazards specific to their component.
2. The AHEOP for NMSU-Las Cruces also covers the Doña Ana Community College due to the overlap of the campuses, available for viewing at **NMSU-AHEOP**. There is not a requirement for the Doña Ana Community College that is located on the NMSU- Las Cruces campus to maintain a separate and distinct AHEOP. The university's Emergency Planning Committee and/or its individual members, are available to assist and provide guidance to the NMSU Components as they draft and maintain their AHEOPs.
3. Each NMSU Component is encouraged to coordinate with the appropriate local law enforcement, fire and emergency medical jurisdictions as its AHEOP is drafted; the National Incident Management System ("NIMS") is the model for command and communications.
4. Prior to submission to the NMSU Chancellor for approval and signature, each NMSU Component shall obtain review and approval of its proposed AHEOP from the CART or appropriate CRT, and the Emergency Planning Committee.
5. The NMSU Chancellor shall review and give final approval on behalf of the university, for each AHEOP, for each NMSU Component.
6. The NMSU Components shall review their respective AHEOPs every two years and update accordingly. Substantive changes made to the components' AHEOPs require approval by that component's president and the NMSU Chancellor; non-substantive revisions do not require re-approval and signature. Examples of non-substantive revisions include but are not limited to illustrating or clarifying applicable procedures

and/or updating contact or resource information.

## D. Emergency Planning and Preparedness/Emergency Action Plan ("EAP")

Each NMSU Entity shall develop and maintain an EAP to guide department/unit faculty, staff, students and others immediately following notification of an emergency situation and/or communication as part of an emergency training exercise. Examples of emergency situations that might trigger the need to invoke the EAP include natural disasters, hazardous material spills, or manmade disasters.

1. The goal of this plan is to get unit-level personnel and those in the area (to include students and visitors) to safety as quickly as possible. The EAP is not intended to address the actual response to the emergency or hazardous situation, which is carried out by incident command and emergency responders, respectively.
2. The EAP shall require contact with each affected employee and/or student, as well as notification to the appropriate emergency responder, each time the plan is invoked.
3. The EAP shall be updated as often as necessary, and shall be reviewed periodically with affected employees and/or students to ensure familiarity with it.

## E. Emergency Planning and Preparedness: Continuity of Operations Plan ("CoOp")

In coordination and consultation with the Communicable Disease Preparedness Committee, each NMSU Entity shall develop and maintain a Continuity of Operations Plan. **Appropriate elements for this plan may include the following**:

1. **Line of Succession**: Each NMSU Entity should keep an up-to-date listing of contact information for the employee in charge of the unit, and at least two others in order of succession. This line of succession and contact information shall be communicated within each NMSU Entity, as well as up to the entity's next level of supervision.
2. **Intra-Unit Communications**: Each NMSU Entity shall maintain a list of current contact information for all employees and volunteers, to facilitate communications in the event any type of emergency. The type of communication that may be required is likely to vary depending upon the nature and timing of the unforeseen emergency, and may involve the use of telephone trees, e-mail, personal visits to homes, etc. (**NOTE**: Intra-unit communication during an emergency should also be addressed within the EAP).

3. **Designations of Essential, Alternate Essential and Standby Personnel**:
    a. Each NMSU Entity shall determine the job duties and functions that would be critical to continuity of operations.
    b. A list of the personnel who perform these duties and functions shall be transmitted to the chair of the Communicable Disease Preparedness Committee (by job position and incumbent employee), who shall review and submit to human resource services for designation as "essential personnel" in each job description.
    c. Personnel identified to fill essential positions or alternates for essential positions will be listed on the CoOP for that NMSU Entity. Alternates for Essential Personnel will also be identified, as well as any personnel that might be needed on a standby basis.
    d. Notwithstanding prior designations, any position may be designated as essential, alternate essential or stand-by as needed at any point during an emergency situation.

## F. Personnel Considerations During Emergency

The following human resources policies shall apply when employees work as needed during emergencies:

1. **Communication of Designation(s) to Employees**: Each NMSU Entity shall communicate any special designations to its employees (e.g. "essential" "alternate essential" or "standby"). As noted above, designations may be changed by department head or other appropriate supervisor during an emergency, if needed.
2. **Reasonable Flexibility**: In an emergency, both employer and employee should be as flexible as possible to enable employees to work, including facilitating working from home and other remote locations (telecommuting); allowing full-time employees to work part-time; using flexible work schedules; and other appropriate solutions.
3. **Extension of Deadlines**: All probationary periods and other such deadlines will be extended for the duration of the declared university emergency.
4. **Responsibilities of Essential, Alternate Essential and Standby Personnel**: Essential personnel shall report for work unless specifically directed by supervisor or authorities not to report for health and safety reasons. Alternate essential personnel whose designations are changed to essential shall report for work upon notification of changed designation. Standby personnel, not designated as essential or alternate to essential, shall not report to work during a university State of Emergency and may only work if pre-approved by the NMSU Entity.

5. **Work Outside Normal Scope of Employment Duties**: Employees may be required to work outside their normal scope of responsibility as deemed necessary by appropriate NMSU administrator. This includes employees with the necessary skills that are needed to work outside their colleges/vp units. Base compensation will be at the individual's regular base pay for their primary job unless other arrangements are approved by HR Services.
6. **Compensation and Leave Time**: Non-exempt/hourly employees will be paid in accordance with the university's policy for closure pay (ARP 7.21). Exempt/salaried employees will receive regular base pay for time worked and be eligible for a hardship differential if excessive overtime is required. Employees not able to work at any location or not required to work will not receive regular pay, but should report their time as "other leave taken", which is paid leave.

## G. Declaration of State of University Emergency/Notification/Authority to Act

1. **Declaration of State of University Emergency**: The NMSU Chancellor is authorized to declare a State of University Emergency for any of the NMSU Components, NMSU Entities and/or External Entities. When the NMSU Chancellor is not available, the line of succession for said office shall be followed, with the successor having equal authority. Such a declaration is typically used when inter-agency assistance or relief is sought.
2. Emergency information shall be communicated to the university community as appropriate based on the decisions of the incident commander, the CART Command, or others pursuant to **ARP 16.11 Emergency Notification System**.
3. **Authorization for action by Administrator or Supervisor**: Each administrator or other supervisor in charge of an NMSU Component or NMSU Entity is authorized to take action as may be necessary to preserve life or university property during an emergency situation without prior authorization, but such emergency response action should be followed by immediate notification to NMSU Chancellor as soon as is reasonable under the circumstances.
4. **Authorization for action by NMSU Employees**: Each NMSU employee is authorized to act as may be necessary to preserve life or university property during an emergency situation, in the absence of a supervisor, but such emergency response action must coincide with immediate notification to any member of CART Command, Resources or Operations teams, who shall notify the NMSU Chancellor as soon as reasonable under the circumstances.

## H. Incident Command and Emergency Response

1. For emergencies and disasters occurring on the NMSU Las Cruces campus, the central campus of Doña Ana Community College, or surrounding university property, the NMSU Police and/or the NMSU Fire Department will serve as incident commander, as appropriate based on the type of emergency.
    a. The incident commander (s) will coordinate with CART in the event that evacuations, shelter in place, building closures, etc. have been ordered for the immediate preservation of life and property.
    b. The Incident Commander may invoke mutual aide agreements with other agencies, as appropriate, without the need for Chancellor approval or a formal declaration of university emergency.
    c. Incident commanders (emergency or nonemergency) and other members of the CART may activate the Central Administration Response Team in support of their emergency operations.
    d. The NMSU Police or the NMSU Fire Department shall maintain policies and procedures to provide their respective personnel with the necessary procedural guidance for routine and emergency situations.
2. For emergencies and disasters occurring on NMSU property other than the NMSU Las Cruces campus, the central campus of Doña Ana Community College, or surrounding university property, the appropriate local police or fire jurisdiction will serve as incident commander, as appropriate based upon the type of emergency.
3. For situations where there is not an immediate life-threatening emergency, other individuals and entities may act in the role of incident commander. These individuals will be designated as “nonemergency incident commander” and do not have the same training requirements as emergency incident commanders.  Examples of nonemergency incident commanders include the associate vice president for facilities and services when related to utility outages and the associate vice president for information technology when related to information system(s) or telecommunication outages.

## I. Disaster Consequence and Recovery Management/Follow Up (After Action Reviews)

After any major emergency or disaster, the Emergency Planning Committee shall coordinate with the appropriate individuals and entities to ensure a formal after-action review is conducted in order to identify successes, policy, rules and procedures, or plan changes needed, and potential areas for improvement.

## PART 4: PROCEDURES

The policy administrator, in collaboration with the Emergency Preparedness Committee with the concurrence of the chancellor, may issue procedural guidelines, including templates, checklists, forms or other materials that will facilitate the implementation and application of this rule.

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 16 | Safety and Risk Management

**Rule Administrator:** Chancellor

**Last Updated:** 01/28/2019

## Related

**Cross-Reference:**
**ARP 7.21 – University Closure Pay**

**ARP 16.11 – Emergency Notification System**

***See also:***

**ARP 16.15 – Fire Safety, Prevention and Emergency Medical Services**

**Revision History:**

01/28/2019 Companion Revision to new ARP 7.21, approved 01/28/2019 by Board of Regents
2017 Recompilation, formerly Rule 2.25
05/08/2015 Amendment approved by Board of Regents
03/11/2013 Amendment approved by Board of Regents
07/29/2009 Amendments ratified by Board of Regents
07/14/2009 Amendment approved by Administrative Council
05/12/2009 Amendment approved by Administrative Council

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 16.11 – Emergency Notification System

arp.nmsu.edu/16-11

## A. Purpose

The purpose of this Rule is to establish a consistent method for collecting and maintaining contact information, delineate responsibilities of specific university offices, and provide guidance for the use of collected contact/notification information.

## B. Rule Administrator

The administrator of this Rule is the associate vice president for information technology. The university's Emergency Planning Committee, established by the NMSU system Chancellor, will also serve as an advisory body to the associate vice president for information technology, as needed for implementation and day-to-day management of this Rule.

## C. Rules

Students, faculty, and staff within the NMSU System are required to provide emergency notification information to the university that shall be used to contact them in the event of an emergency.

1. At their discretion, students, faculty and staff may also provide emergency contact information.
2. Both emergency notification information and emergency contact information shall be collected via university central administrative systems.
3. Official NMSU email shall be used as one method of contact.
4. Depending on the availability of notification/contact information, additional communication methods, such as text messaging and cellular phone calls, shall be employed.

5. Emergency contact/notification information provided to NMSU shall be used only by designated offices for notification of emergencies or for testing of the emergency notification system(s).

# D. Procedures

## 1. Types of Information Collected

a. Emergency Notification Information: This information is used for mass notifications sent to the NMSU community. Examples of the use of this type of information include: tornado warning, active shooter alert, chemical release notice, etc.
b. Emergency Contact Information: This information is used to contact next of kin or others in case of a personal emergency. Examples for the use of this type of information include: illness, accident, etc., such as when the student/employee is unable to communicate to emergency personnel.

## 2. Collection of Information

a. Emergency Notification Information: Students, faculty, and staff have control over their emergency notification information, and shall be responsible for updating their information in the university's central administrative systems. When a new employee or student establishes a NMSU username, she/he shall be required to provide an email address and phone number. In addition, other optional contact information, such as text and cellular numbers, shall be requested.
b. Maintenance of Emergency Notification Data: NMSU is responsible for controlling emergency contact information. NMSU shall grant access to the data to select offices, including campus presidents, the Office of Information and Communication Technologies, and agents of the university contracted to provide emergency notification services. Written agreements regarding confidentiality of the data and limitations on use shall be maintained by the Procurement Services Office for any contracted services.

## 3. Mass Emergency Notifications

a. **An emergency notification of students, staff, and faculty may be initiated when the following criteria are met:**
    i. There is a major incident or threat affecting the safety of the NMSU community
    ii. The emergency notification can help alleviate threats to others or shall otherwise improve public safety
    iii. The emergency notification will not adversely impact public safety

b. **The contents of emergency messages will vary depending on the circumstances of each incident. The following are examples of items that might be contained in a message:**
    i. Statement that an emergency situation exists
    ii. Location of the emergency
    iii. Nature of the emergency (e.g., fire, explosion, shooting, tornado, flood, etc.)
    iv. Guidance on actions to be taken
c. **Authorized NMSU personnel shall**:
    1. Make a determination regarding the notification method (*g.*, text message, phone calls, e-mail, etc.) based on the circumstances of the incident and
    2. Initiate the notifications.
    3. After an emergency notification has been made, additional information shall be posted on the university website.

## 4. Communication with those Identified as Emergency Contacts

a. University officials shall use Emergency Contact information to contact in case of a personal emergency. Examples for the use of this type of information include: illness, accident, etc., such as when the student/employee is unable to communicate to emergency personnel.

# Details

**Scope:** NMSU System
**Source:** ARP Chapter 16 | Safety and Risk Management

**Rule Administrator:** Chief Information Officer

**Last Updated:** 09/29/2017

# Related

**Cross-Reference:**
**Revision History:**

*Recommended by the Administrative Council 02.12.13; approved by the Board of Regents 03.11.13*

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 16.12 – Clery Act Compliance

arp.nmsu.edu/16-12

## PART 1: PURPOSE

This rule provides guidance for the NMSU Campuses relating to the requirements of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) of 1990, as amended *(20 U.S.C. §1092 (f) and 34 C.F.R. 668.46)*.

This rule also authorizes the creation of the Clery Act Compliance Advisory Committee as a University Board (https://rpm.nmsu.edu/2-30/), to be constituted by the chancellor, consisting of representatives from each campus, whose day-to-day operations are guided by Clery Act compliance obligations. The advisory committee will facilitate the exchange of information and provide support to all campuses required to file an Annual Security Report. It will also examine current Clery Act best practices and make recommendations to enhance inter-campus and intra-campus communication and coordination pertaining to compliance with the Clery Act.

## PART 2: DEFINITIONS

A. **Campus:** A building(s) or property owned or controlled by NMSU, reasonably contiguous to one another, which directly support or relate to NMSU's educational purposes.
B. **Campus Security Authority (CSA):** A specific term used in the Clery Act generally encompassing the following: 1) Police and security personnel; 2) others who are responsible for campus security but are not police or security personnel; 3) individuals to whom NMSU directs students and employees to report crimes; and 4) officials with significant responsibility for student and campus activities. *See Part 7 below*.

C. **Clery Crime**: Clery Crimes or "crimes" include four general categories of crime statistics:
    1. Criminal Offenses (primary crimes): criminal homicide including murder and non-negligent manslaughter; manslaughter by negligence; sexual assault (sex offenses) including: rape, fondling, incest and statutory rape; robbery; aggravated assault; burglary; motor vehicle theft; and arson.
    2. VAWA Offenses: Any incidents of domestic violence, dating violence and stalking (Note: sexual assault is also a VAWA Offense but is included in the Criminal Offenses category for Clery Act reporting purposes).
    3. Arrests and Referrals for Disciplinary Action for: carrying/possessing weapons or other violation of state law; drug abuse violations and liquor law violations.
    4. Hate Crimes: Any of the above-mentioned offenses, as well as incidents of larceny, theft, simple assault, intimidation, or destruction/damage/vandalism of property that were motivated by bias.
D. **Clery Geography:** The geographical areas for which each NMSU campus must log and report crime statistics: 1) on its campus; 2) on public property within, or immediately adjacent to, the campus; and 3) in non-campus buildings or on non-NMSU property owned or controlled by NMSU.
E. **Emergency Notification**: A warning given, triggered by any event currently occurring or that imminently threatens the health or safety of students and employees, including significant emergencies and dangerous situations.
F. **Timely Warning**: A warning given, triggered by a Clery Crime reported (to a Campus Security Authority or to law enforcement) to have occurred within the campus' Clery Geography, which NMSU considers to represent a serious or ongoing threat to students or employees.

## PART 3: SAFETY EDUCATION

A. **Safety Education of Students:** The offices of the Dean of Students, Institutional Equity and the NMSU Police Department will coordinate with the campus presidents and their respective departments to institute safety education programs for students as follows:
    1. Incoming Students: Incoming students will be provided information about dating violence, domestic violence, sexual assault, and stalking, to include bystander intervention tips.
    2. All Continuing Students: Safety programs and information will be made available to students on an ongoing basis.
B. **Safety Education of New Employees:** Human Resource Services is responsible to provide new employees with information about safety programs, how to report emergencies, how to report crimes (including reporting domestic violence, dating violence, sexual assault, and stalking to the Title IX Coordinator), and the university's emergency notification system.

## PART 4: UNLAWFUL POSSESSION, USE OR DISTRIBUTION OF ALCOHOL

NMSU strictly prohibits the unlawful possession, use, or distribution of alcohol. *(ARP 5.22 B.; ARP 16.60 Parts 3-5*) The NMSU Police Department enforces state liquor laws and criminal law violations, and the offices of Dean of Students and Human Resource Services, respectively, enforce policy violations relating to alcohol by students and employees.

## PART 5: POSSESSION, USE OR DISTRIBUTION OF ILLICIT DRUGS

NMSU strictly prohibits the unlawful possession, use, or distribution of illicit drugs. *(ARP 16.65)* The NMSU Police Department or local police jurisdiction enforces state criminal laws, and coordinates with other agencies for the enforcement of federal laws to prevent and address the possession, use and distribution of illicit drugs on university property. The offices of the Dean of Students and Human Resource Services, respectively, enforce policy violations regarding illicit drugs by students and employees.

## PART 6: AUTHORITY TO INSTITUTE DEPARTMENTAL SECURITY PRACTICES

A. **Security of Housing Facilities:** NMSU Housing and Residential Life is responsible for and authorized to institute security policies and procedures for its department.
B. **Security of Other Campus Facilities:** Facilities and Services, and the equivalent at the community colleges, is responsible to institute security policies and procedures for their respective departments, to include access control and coordinating locking/unlocking schedules, for all non-residential facilities. The Physical Science Laboratory and the NMSU Police Department are exceptions to this, because they maintain independent security protocols due to external regulatory requirements. Facilities and Services is also responsible for, and authorized to, establish security practices for facility maintenance and construction.

## PART 7: DESIGNATION AND DUTIES OF CAMPUS SECURITY AUTHORITIES

A. **Campus Security Authority (CSA) Designation**: The following NMSU employees or contractors serving in the positions listed below are hereby designated as Campus Security Authorities (CSA's):
    1. Police Officers
    2. Emergency Dispatchers
    3. Security Officers and others assigned to monitor or control access to NMSU property
    4. Victim Advocates
    5. Housing & Residence Life staff
    6. Dean of Students staff
    7. Director of Campus Activities
    8. Coordinator of Fraternity and Sorority Life
    9. Advisors to student organizations
    10. Title IX Coordinator and OIE staff
    11. Director of Athletics
    12. Athletic Department coaches (including assistants and graduate assistants)
    13. Director of the Aggie Health Center
    14. Chief Audit Officer
    15. Other individuals who have responsibility for campus security or significant authority for students or campus activities will be designated as a CSA (e.g. faculty for FLiP's).

B. **CSA Duties**: CSA designated personnel must report allegations or information relating to a Clery Crime that other individuals report to them, as well as any other emergency situation, to the NMSU Police Department. Individuals with CSA duties are not by virtue of their CSA role authorized to investigate or apprehend an alleged perpetrator, nor to persuade the alleged victim to file a police report.
C. **CSA Training**:
    1. The Clery Act Compliance Advisory Committee will review and provide feedback regarding any Clery training proposed for the various constituents of the university community.
    2. The NMSU Police Department in collaboration with the Title IX Coordinator, will facilitate training for CSA personnel, to assist them in understanding which crimes require reporting for purposes of Clery Act compliance and how to perform their CSA responsibilities.
    3. Maintenance and storage of CSA training records will be coordinated between the NMSU Police Department and Human Resource Services-Center for Learning and Professional Development.

## PART 8: REPORTING OF CRIMES AND EMERGENCIES

Students, faculty, staff, and guests are encouraged to assist anyone experiencing an emergency or victim of a crime that they may encounter, and to report promptly any emergencies or crimes they witness or experience, as follows:

A. **All Emergencies (police, fire, medical):** To report an emergency, community members should call 911. NMSU maintains a full public safety answering point (PSAP, or 911 Emergency Dispatch Center) that works in conjunction with others in the area to appropriately route calls and send emergency assistance.
B. **Emergency Notifications and Timely Warnings:** Any person who thinks an emergency notification or timely warning is needed should immediately contact the NMSU Police Department (either 911 or (575) 646-3311).
C. **All Crimes:** All suspected or witnessed crimes on the Las Cruces campus should be reported to the NMSU Police Department (Emergencies – 911; Non-emergencies – 646-3311)
D. **Domestic Violence, Dating Violence, Sexual Assault, and Stalking:** Even if a victim chooses not to report this type of crime to the NMSU Police Department or local law enforcement agency with jurisdiction, these crimes must be reported by the CSA's and responsible employees to the university's Title IX Coordinator, pursuant to ARP 3.25 or be reported in accordance with 16.78.

## PART 9: TIMELY WARNINGS AND OTHER EMERGENCY NOTIFICATIONS

A. NMSU broadcasts Timely Warning and Emergency Notifications and periodic updates using various media. Timely Warnings are sent to the student or employee's official NMSU email account, and Emergency Notifications are sent to students and employees using various media, based on the receipt options selected, and are also sent to other individuals they may opt to also receive the Emergency Notifications. (*mynmsu.edu and ARP 16.11 – Emergency Notification System*)
B. When feasible, the NMSU Police Department will collaborate with other involved departments (e.g. OIE) to evaluate the facts and context necessary to determine the need, if any, to issue a Timely Warning or other Emergency Notification for the protection of the university community, consistent with the department's operational guidance developed with the concurrence of the Clery Act Compliance Advisory Committee.

## PART 10: EVACUATION OF FACILITIES

In an emergency, the incident commander (*ARP 16.01; ARP 16.10*) will order the evacuation of any facility deemed appropriate in order to protect life. NMSU faculty, staff, and students are expected to evacuate facilities as indicated by building alarms, subject to pursuit of a reasonably prudent alternative necessary to protect themselves in the face of more imminent danger.

## PART 11: MONITORING OFF CAMPUS CRIMINAL ACTIVITY

A. NMSU does not routinely monitor criminal activity or law enforcement actions taking place outside NMSU Clery Geography. Individuals interested in finding out about off campus crime should contact the appropriate law enforcement agency with jurisdiction.

B. Once each year, the NMSU Police Department will request law enforcement statistics for Clery Crimes from those outside law enforcement agencies/departments with jurisdiction over some or all of the university's Clery Geography, including but not limited to off campus properties owned or controlled by chartered student organization. The statistics provided by these outside law enforcement agencies/departments will be included in appropriate campus' Annual Security Report.

## PART 12: CLERY MONITORING, CRIME LOG, AND ANNUAL SECURITY REPORT

A. **Monitoring for Clery Compliance**: On behalf of NMSU, the Police Department monitors the NMSU system entities for compliance with the Clery Act and related university policies. Policy infractions or inconsistencies in reporting will result in required training. Lack of cooperation, and repeated or flagrant violations, will be reported to the relevant campus president, for internal investigation in conjunction with Human Resource Services – Employee and Labor Relations, and may subject the responsible official to disciplinary corrective action.

B. **Maintenance of Crime Log and Clery Crime Statistics**:
   1. The NMSU Police Department, and each community college with a designated security officer will maintain a public log of all criminal incidents and alleged criminal incidents reported to them.
      a. The log will include the nature, date, time and general location of each crime and disposition of the complainant (within the past 60 days), if known.
      b. Information must be readily available within two business days from date of request.
      c. Crime logs must be maintained for seven years, and for at least three years following the publication of the most recent amendment of any annual security report. (Historical daily crime logs can be viewed online at https://www.nmsupolice.com/crime-statistics/.)
   2. The NMSU officials responsible for submitting Annual Security Reports (NMSU Police Department and community college security official(s)) will also maintain Clery Crime statistics consistent with the Clery Act and corresponding regulations.
      a. These officials are encouraged to coordinate with Facilities and Services to identify the buildings and properties within each of these categories to assist with proper reporting.
      b. Crimes occurring outside of the campus' Clery Geography are not to be included in the Clery Act statistics, even if students or employees are involved.

C. **Issuance of Annual Security Report**:
   1. By October 1 of each year, the NMSU Police Department will publish and distribute to current and prospective students and employees an Annual Security Report for the [contiguous] Las Cruces and DACC Espina Campuses (joint report), and a separate Annual Security Report for the Albuquerque Center campus.
   2. The presidents of the other NMSU campuses will ensure that their campus' Annual Security Report is published and distributed for their campus by October 1 of each year.
   3. Each Annual Security Report will provide Clery Crime statistics for the prior three years, policy statements about safety and security measures, and procedures applicable to the investigation and prosecution of alleged sex offenses.
   4. Notice of each NMSU Annual Security Report will be sent timely, with a URL posted for electronic access, with instructions for obtaining a paper copy, if desired.

## Details

**Scope:** NMSU System

**Source:** ARP Administrative Rules and Procedures Chapter 16 | Safety and Risk Management

**Rule Administrator:** Campus Presidents, NMSU Police Chief

**Last Updated:** 01/07/2020

## Related

**Cross-Reference:**
The Handbook for Campus Safety and Security Reporting

RPM 2.30 University Boards

**Revision History:**
01/07/20 Amendment approved by Chancellor

10/01/2019 Adopted by provisional authority of Chancellor

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 16.15 – Fire Safety, Prevention and Emergency Medical Services

arp.nmsu.edu/16-15

## A. Purpose and Scope

This amended Rule, and corresponding Fire Prevention Guidelines and Practices, are established in order to protect and preserve the safety of the public and NMSU property. This Rule and the Fire Prevention Guidelines and Practices apply to university students, employees, visitors and contractors working or conducting business on the NMSU Las Cruces (NMSU) and NMSU Doña Ana Community College (DACC) located on the NMSU Las Cruces campus.

## B. DFES Jurisdiction

Consistent with the university's Emergency Preparedness Rule, the NMSU Department of Fire and Emergency Services:

1. Serves as the primary response agency for NMSU-Las Cruces and NMSU-Doña Ana Community College for emergencies such as fire, medical, hazardous materials mitigation and confined space rescue operations.
2. Provides mutual aid assistance to City of Las Cruces and Doña Ana County's 15 fire districts.
3. Provides EMS services at special events conducted on campus or at the request of an NMSU entity.
4. DFES is also under the broader jurisdiction of the New Mexico State Fire Marshal's Office (FMO). The State of New Mexico has adopted the National Fire Protection Association (NFPA) Standards. DFES is granted Authority Having Jurisdiction (AHJ) from the New Mexico State FMO and is the authority in all matters dealing with fire safety for NMSU and NMSU-DACC. For other NMSU campuses and locations, the Authority Having Jurisdiction is the New Mexico State Fire Marshal, local county fire marshal or municipal fire department.
5. As delegated from the New Mexico State Fire Marshal's Office, the NMSU Department of Fire and Emergency Services is the Authority Having Jurisdiction

(AHJ) and performs the fire safety inspections as requested or as determined for facilities located on the NMSU-Las Cruces and NMSU-Doña Ana Community College campuses. The inspections are conducted for the purposes of identifying and recommending corrective action to eliminate or reduce the potential for loss of life or property due to fire. The inspections are conducted utilizing State adopted National Fire Protection Association (NFPA) codes, with the International Building Code and International Fire Code as reference.

6. NMSU Office of Environment Health and Safety is responsible for occupational fire safety and shares fire inspection duties with the NMSU Department of Fire and Emergency Services.

## C. Fire Prevention and Safety, Generally:

1. The National Fire Protection Association (NFPA), International Fire Code (IFC), International Building Code (IBC) and the Occupational Safety and Health Administration (OSHA) standards are the primary resources used in the development of the Fire Prevention Guidelines and Practices. Because the DFES is recognized as the Authority Having Jurisdiction (AHJ) in matters related to fire safety, interpretations and/or deviations may be allowed in some cases. Deviations will be evaluated and determined by DFES on a case-by-case basis. Specific issues not addressed in the *Fire Prevention Guidelines and Practices* may be referenced in one of the above standards, and will apply as determined by the DFES.
2. The *Fire Prevention Guidelines and Practices* is intended to facilitate the training of NMSU personnel and compliance by NMSU by restating some of the more fundamental requirements of the above referenced national and state standards and laws. Due to the risk of serious injury and/or death from fire or fire-related emergencies, students, employees, visitors and contractors shall comply with the *Fire Prevention Guidelines and Practices*. Any hazardous or emergency situation, even if only suspected, shall be reported to DFES.
3. Fire Emergency Action and Evacuation. The NMSU Office of Environmental Health and Safety and the NMSU Fire Department shall coordinate regarding the requirements of the Fire Prevention Guidelines and Practices relating to general and specific fire evacuation plans for the protection of university students, employees, visitors and contractors from the hazards associated with a fire-related emergency which may occur on university property. Examples of fire-related emergencies that would require initiation of building evacuation include and are not limited to:
    a. The smell of smoke (regardless of how small an amount),
    b. The sight of smoke (regardless of how small an amount),
    c. The smell of gas or other hazardous chemical,
    d. Electrical equipment that is sparking,

e. Any fire, regardless of how small, even if it has already been extinguished.

## D. Roles and Responsibilities of NMSU Entities

1. NMSU Administration: To provide NMSU, through support and funding, with a fire safety program which will provide staff, faculty, employees, students, and visitors the guidelines, programs, and policies which will ensure their safety.
2. Deans, Directors, and Department Chairs: Responsible for implementing fire safety programs in areas under their control, and providing assistance to DFES in conducting fire safety inspections, correcting hazards and concerns, and implementing fire prevention and evacuation policies.
3. Office of Environmental Health and Safety (EH&S): Responsible for the development, coordination, implementation, and training of safety programs. The EH&S is responsible for providing assistance to all NMSU staff, faculty and employees in correction of safety hazards and concerns.
4. Managers and Supervisors: Responsible for ensuring that their areas of responsibility are compliant with approved fire safety practices, receive the required training and coordinate code violation corrections with DFES.
5. Maintenance Personnel: Responsible for ensuring the proper maintenance, operation, and documentation of all emergency and safety devices under their control.
6. Students, Employees, Visitors and Contractors: Shall become aware of and comply with fire safety programs, attend required training, and report any suspected fire safety hazard to DFES.
7. Students: Although not specifically required to be trained in the same manner as faculty and staff, students are urged to become familiar with the safety policies of NMSU and should report any potential fire safety hazard to DFES.
8. Contractors: Are responsible for compliance with local, state and federal safety standards. Contractors have the responsibility to ensure that their work does not create fire or other safety hazards.

## E. Other Considerations

Emergency Procurements: For purposes of the New Mexico Procurement Code, an emergency condition is a situation which creates a threat to the public's health, welfare, safety, or to property such as may arise by reason of floods, epidemics, riots, equipment failures or similar events. The existence of the emergency condition creates an immediate and serious need for services or construction that cannot be met through normal procurement methods. The Procurement Services Office may either initiate or authorize others to make emergency procurements, provided that such emergency procurements

shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency procurement and for the selection of the particular contractor shall be included in the procurement file. Emergency procurements shall not include the purchase or lease-purchase of heavy road equipment. In the event of an emergency, as defined above, the Procurement Services Office may purchase without bids. During regular working hours, the Procurement Services Office should be informed at once of emergency purchases greater than $2,500. When circumstances beyond the department's control prevent following established procedures or when delay would be detrimental or prove costly to the university, an emergency purchase may be made with the approval of the director of the Procurement Services Office.

## Details

**Scope:** NMSU Las Cruces campus
**Source:** ARP Chapter 16 | Safety and Risk Management

**Rule Administrator:** NMSU Fire Chief

**Last Updated:** 09/29/2017

## Related

**Cross-Reference:**
(*See also* Fire Prevention Guidelines and Practices *approved by the Administrative Council 05.12.09*)

**Revision History:**

*[Amendment adopted by the Administrative Council 07.14.09; ratified by the Board of Regents 07.29.09]*

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 16.16 – Regulation of Fires, Fireworks on NMSU Premises

arp.nmsu.edu/16-16

This fire prevention Rule establishes fire restrictions for the main campus to include the main campus, university owned lands east of Interstate 25, the Horticulture Farm, the Horse Center, and the Leyendecker Plant Science Farm. **The following acts are prohibited unless an appropriate permit has first been obtained through the university fire department**: (1) building or using an open fire on university land; and (2) use of all fireworks on university land.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 16 | Safety and Risk Management

**Rule Administrator:** NMSU Fire Chief

**Last Updated:** Not Available

## Related

**Cross-Reference:**
**Revision History:**

12/08/2018 Renumbered, formerly 16.68
2017 Recompilation, formerly Rule 3.55

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 16.20 – Awareness, Assessment and Response to Behaviors of Concern

arp.nmsu.edu/16-20

## A. **Purpose**

The purpose(s) of this Rule, and corresponding procedural guidelines, as they may be subsequently issued by the Rule administrators, are as follows:

1. To heighten awareness and mutual concern for the welfare of all within the New Mexico State University (NMSU) system, which includes all campuses and work sites, and to encourage the reporting of observed behaviors of concern occurring in the classroom, on campus, in NMSU Housing, in the workplace, or at any other university location or sponsored event.
2. To facilitate communication and coordination amongst university officials charged with maintaining a safe and secure environment for university students, employees, and others, specifically with a focus on the avoidance of critical incidents caused by individual or group misconduct, through early detection and reporting, risk assessment and responsive action.
3. To formally recognize and authorize the Conduct Assessment/Response, and Education (CARE) Committee and its subcommittee, the Behavioral Intervention Team, and to clarify their respective roles and responsibilities relative to the process by which the behavior of concern will be assessed for risk and determination of appropriate precautionary and/or follow up action.

## B. **Scope**

This Rule applies throughout the NMSU system, at all university owned, controlled, or leased properties, as well as at off campus locations used for university sponsored events or activities. The Rule may also be applied, at the discretion of the Rule administrators on a case by case basis, in response to reported off-duty or off-campus conduct, depending upon the nature of the impact to university interests, including but not limited to, its students and personnel.

## C. **Rule Administrator(s)**

The Dean of Students, NMSU Police Chief and Asst. VP for Human Resource Services, or their respective designees, shall administer this Rule as outlined herein; they may jointly approve any supplemental operational protocols to facilitate implementation of this Rule. The Rule administrators work closely with the Conduct Assessment/Response and Education (CARE) Committee, its subcommittee, the Behavioral Intervention Team and designated police personnel, as appropriate for each case. All NMSU supervisors shall assist, as may be requested by the primary Rule administrators, with university community education necessary to implement this Rule.

## D. **Definitions**

For purposes of the administration of this Rule and corresponding procedural guidelines, the following definitions apply:

1. "**Behavior of Concern":** Behavior of concern is any behavior, including verbal, physical, written or expressed via electronic media or other mode of communication, that reasonably causes someone to be concerned about:
    a. the health, safety, or welfare of the individual exhibiting the behavior;
    b. the health, safety or welfare of any other individual(s) or property, ordisruption in the classroom, program, or other academic or work environment.
2. **"Campus Resident":** Any person who lives in university housing; such individual may or may not meet the definition of "student".
3. **"Student":** Any person enrolled in any course or program at New Mexico State University, which includes all NMSU campuses and work sites.
4. **"University Community":** The university community includes students, faculty, staff, campus residents, contractors and other vendors, volunteers, and visitors to campus.
5. **"University Facility":** Any campus, college, center, building, open space or other facility or area owned by, or operated under the control of, New Mexico State University.
6. **"Violence":** Violence includes, but is not limited to: murder, sexual assault, robbery assault; battery; harassing or intimidating behavior that creates a reasonable fear of harm; stalking; and/or, threats of violence made in any medium (verbal, electronic, telephonic, written, gestures, etc). It also includes all incidents of hate crimes, dating violence, and domestic violence.

## E. **General Principles**

## 1. Early Reporting and Intervention

While potential incidents of violence are at the forefront of concern, this Rule is intended to address individual behaviors that may be, or may become, a disruption to the environment, whether classroom, office, housing or other university facility. Outreach at an early stage is desirable to prevent violence in some instances, and to retain an employee or student in more instances. This Rule is therefore designed to encourage the reporting of behaviors of concern before they lead to violence or other serious harm. In the unfortunate event that a critical incident should occur, administrators are not relieved of their duties under other policies and protocols (e.g. emergency notification and response; support to victims of violence; internal and/or police investigation into alleged misconduct; and student/employee disciplinary action and/or punitive consequences, including arrest).

a. Any person, including university employees and students, who observes behavior of concern is encouraged to submit a report under this Rule.
b. Persons who in good faith submit a report or take other action authorized by this Rule shall not be subjected to adverse action for having done so.
c. It is acknowledged that some individuals may be both student and employee; in those situations, action will be taken in the best interest of the individual and the institution, and may include administrative action under either student policies/procedures or employee policies/procedures, or both.
d. As part of a larger and institution-wide commitment to a secure campus and workplace environment, the university is committed to the development of preventive measures. In addition to the work of the CARE Committee, the Behavioral Intervention Team and/or NMSU Police Chief and/or designee; other examples include: pre-employment screening, employee assistance program, student support services, and other outreach and educational initiatives.
e. The university's Office of Human Resource Services-Employee Management Services provides collaborative problem-solving assistance to supervisors and employees in the area of conflict resolution in an attempt to address and diffuse tensions caused by interpersonal disputes or other reasons, before disputes in the workplace reach a level at which violence may erupt. f. Individuals found to have intentionally and maliciously submitted a false report may be subject to appropriate administrative, civil or criminal action.

## 2. Retaliation Prohibited

Individuals who are found to have retaliated against any individual reporting or taking other action under this Rule, including encouraging or assisting another to report behavior of concern, may be subject to administrative, civil or criminal action as may be appropriate under the circumstances.

## 3. Establishment of the CARE Committee

To facilitate implementation and administration of this Rule, the Board of Regents formally recognizes and authorizes the Conduct Assessment/Response, and Education (CARE) Committee as a standing university board, along with its subcommittee, the Behavioral Intervention Team. See **Official List of University Boards**.

## 4. Role of the CARE Committee and the Behavioral Intervention Team

The CARE Committee and Behavioral Intervention Team assess and coordinate response to reported behaviors of concern that do not pose an immediate threat of personal harm (to self or others), nor to property. These committees have been established in part to facilitate the assembly of information from the distinct NMSU entities that may be privy to relevant information, in order to assist with the assessment for risk of harm. The CARE Committee defers to the Behavioral Intervention Team and other qualified professionals the decision making regarding the nature and type of appropriate responsive action.

a. The CARE Committee and the Behavioral Intervention Team do not provide counseling or medical advice or services, but each may act to refer individuals to such internal or external resources, especially in situations involving victims of violence.
b. The CARE Committee and the Behavioral Intervention Team are not responsible for responding to campus emergencies. Emergency response is performed by the appropriate public safety entities (e.g. police or fire), with consequence management (continuity of operations and disaster recovery) addressed by the Central Administration Response Team ("CART"), consisting of university executive administrators (See **ARP 16.10 Emergency Preparedness and Response**) However, the CART or other public safety professional may request information or assistance from either the CARE Committee or the Behavioral Intervention Team as needed when responding to or managing an emergency. This provision is not intended to affect or otherwise limit the authority of the individual members of the Behavioral Intervention Team to act in their professional capacity, or to take emergency medical action as permitted by state law.
c. The CARE Committee and the Behavioral Intervention Team will work with other university offices and resources to publicize, throughout the NMSU system, the purpose and functions of the committee and the protocols in place for reporting behavior of concern, including new employee and new student orientation at all campuses.
d. The members of the CARE Committee and the Behavioral Intervention Team are authorized to obtain information pertaining to a matter pending review by the committee or team about individuals from supervisors of the NMSU entities and from students for relevant information; supervisors and students shall respond

cooperatively and timely to such requests, for the benefit of the person involved as well as for that of the institution.

e. The Office of General Counsel provides legal counsel to the CARE Committee and the Behavioral Intervention Team, and is included in their meetings as an ex officio member.
f. All members of, as well as individuals involved with, proceedings of the CARE Committee or the Behavioral Intervention Team shall maintain confidentiality at all times as required by law, including professional licensing standards regulated by the State of New Mexico.

# F. Procedural Guidelines and Flowchart

As authorized by **RPM 1.10** and former **ARP 16.20**, Section F., the following guidelines issued on April 13, 2013 supplement this Rule. See Also **CARE Team**.

## 1. Review Procedures for Reported Behavior of Concern

The following are the essential procedures for the reporting, initial review of reports; fact gathering; assessment of risk by professionals; and action taken in response relating to reported behaviors of concern. See Also the corresponding Flowchart for an overview of the process.

a. **Report by Member of University Community:** Members of the university community report behaviors of concern that they may observe through the Office of the Dean of Students website, "Worried About Someone?" located at deanofstudents.nmsu.edu, or by phone to 575-646-1722, or at the on-line reporting at concernreport@nmsu.edu. If the behavior of concern also constitutes a crime, or more importantly, poses a potential for imminent harm to a person or property, the individual reporting the behavior should call 911 directly.

## 2. Receipt of Report/Initial Review

a. **Reports of behavior of concern shall be reviewed daily by the appropriate rule administrator:**
    i. For student behavior of concern, the Dean of Students or designee;
    ii. For employee behavior of concern, the Asst. VP for Human Resource Services or designee;
    iii. For volunteer, vendor, visitor or other third party behavior of concern, the NMSU Police Chief and/or designee.
b. **The appropriate rule administrator shall provide an abbreviated review based upon the limited facts in the report and:**

i. If there appears to be imminent risk of harm to self or others, the matter shall be referred to the NMSU Emergency Dispatch, for appropriate medical or law enforcement response;
ii. If there appears to be an immediate need, but no risk of harm, the matter shall be referred to the Behavioral Intervention Team for expedited fact gathering, assessment for risk, and responsive action.
iii. If there appears to be no immediate need for either administrative, law enforcement or medical attention, the matter shall be referred to the next meeting of the CARE Committee.

c. **Fact Gathering:**
Absent an active emergency, it is the role of the CARE Committee, the Behavioral Intervention Team and the NMSU Police Chief and/or designee to seek additional information which may be known by other areas within the university and surrounding areas, and to share with all involved as appropriate, in order to best assess the behavior of concern and determine the level of risk of harm presented, if any. Additionally, they may, but are not obligated to, contact the individual's emergency contact listed in the NMSU Emergency Notification System to obtain additional information from family or friends that may be familiar with the individual whose behavior has been reported. The CARE Committee and the Behavioral Intervention Team members also will expedite the provision of available information to the designated NMSU Police personnel, as may be requested during emergent circumstances that arise from behavior of concern by a student or employee.

d. **Risk Assessment and Case Assignment:**
The following evaluation classifications, identified by *Deisginger and Randazzo*, as adapted in this rule are used to assess any risk of harm that a behavior of concern may present. Cases may be assessed and re-assessed dependent upon the circumstances of each case, and as each develops.
i. **EXTREME RISK** (Level 1): Appears to pose an immediate threat of violence or self-harm. ***REQUIRES immediate containment, law enforcement or emergency medication, target protection, and/or a Threat Management Plan***. Matters assessed at Level 1 will be assigned to the NMSU Police Chief and/or designee to coordinate law enforcement action and/or emergency medical assistance. The NMSU Police Chief and/or designee will take the lead in coordinating all Risk Level 1 Threat Management Plans.
ii. ***HIGH RISK*** (Level 2): Appears to pose a threat of violence or self-harm but lacks immediacy or specific plan. ***REQUIRES a Responsive Action Plan***. Matters assessed at Level 2 will be assigned to the Behavioral Intervention Team, for development of a Responsive Action Plan, which will be implemented and monitored by the Behavioral Intervention Team, in conjunction with the NMSU Police Chief and/or designee.

iii. ***MODERATE RISK*** (Level 3): Does not appear to pose a threat of violence or self-harm at this time, but exhibits behaviors or circumstances that are likely to be disruptive to the community. ***REQUIRES active monitoring and referrals***. Matters assessed at Level 3 will be assigned to the Behavioral Intervention Team, for development of a Responsive Action Plan, which will be implemented and monitored by the Behavioral Intervention Team, with assistance from the CARE Committee or the NMSU Police Chief and/or designee, as may be requested.

iv. ***LOW RISK*** (Level 4): Does not appear to pose a threat of violence or self-harm at this time, nor is a significant disruption to the community expected. ***REQUIRES passive monitoring and referrals as appropriate***. Matters assessed at Level 4 will be referred to the CARE Committee to develop a Responsive Action Plan.

v. **NO IDENTIFIED RISK** (Level 5): Does not appear to pose a threat of violence or self-harm at this time, nor is the person a significant disruption to the community expected. ***No monitoring is required.*** Matters assessed at Level 5 will be referred to the CARE Committee to open a file and store the information for future reference.

e. **Case Worker Responsibilities:**

For each Responsive Action Plan, a single case worker will be identified by the Behavioral Intervention Team or the CARE Committee as the primary contact for communications and documentation.

i. The case worker shall lead and/or coordinate implementation of the plan, which shall be reviewed on a regular basis to determine effectiveness, and whether or not plan modifications are necessary.

ii. In the event that an individual's behavior results in arrest for criminal misconduct or hospitalization for a condition that contributed to the behavior of concern, the role of the case worker is to monitor the status and to work as closely as the individual will permit regarding their release and the individual's plans to return to the work or academic environment.

iii. The case worker will be responsible for documenting and reporting progress implementing the responsive action plan, as well any new developments, to the NMSI Police Chief and/or designee, to the Behavioral Intervention Team or CARE Committee, or chair, as appropriate.

iv. The Chair of the CARE Committee or the Behavioral Intervention Team will coordinate with affected faculty, staff or students as needed, while also respecting the involved individual's wishes regarding privacy and confidentiality; when exigent circumstances exist, the law will be followed and proper documentation will be maintained.

f. **Police Communication:**

Upon successful execution of a Threat Management Plan, the matter will be

appropriately referred by the NMSU Police Chief and/or designee to the CARE Committee or the Behavioral Intervention Team for re-assessment of the risk level.

g. **File Closure:**
A matter will be closed if evaluated as a level 5, and there is no further development changing that status for six months.
    i. A Threat Management Plan, or a Responsive Action Plan, may be modified or continued for as long as the NMSU Police Chief and/or designee or Behavioral Intervention Team decides is appropriate, and during which time the matter will remain open and pending periodic review and reporting to CARE Committee by the case worker.
    ii. If the risk assessment indicated no need for either a Threat Assessment Plan nor for a Responsive Action Plan, the matter will remain open for a period of six months; if there are no subsequent developments during that time, the file will be closed and stored in the office of the appropriate rule administrator.
    iii. All matter assessed or re-assessed as Level 5 will remain open for six months and if there are no subsequent developments during that time, the file will be closed and stored in the office of the appropriate rule administrator.

h. **Documentation and Custodian(s) of Records:**
The chair of the CARE Committee and the chair of the Behavioral Intervention Team will work with the assigned case workers to ensure that proper documentation is prepared and maintained.
    i. The official custodian of the CARE Committee's records, including meeting notes and Level 4 and 5 cases assigned to case workers, is the Dean of Students.
    ii. The official custodian of the Behavioral Intervention Team records, including and limited to Level 2 and 3 cases assigned to case workers, is the appropriate rule administrator for the type of individual (e.g. student, employee or third party visitor).
    iii. The official custodian of Level 1 Threat Management Plans and related records, and all other criminal records which might relate to cases assessed at any risk level pursuant to this rule, is the NMSU Chief of Police and/or designee.

i. **Retention of Records:**
The documentation related to reported cases, responsive action plans (if created), and/or any administrative action taken as a result of reported or observed behavior of concern will be maintained for ten years following file closure, in the office of the appropriate record custodian, unless New Mexico or federal law require retention for a longer period.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 16 | Safety and Risk Management

**Rule Administrator:** Dean of Students

**Last Updated:** 09/15/2017

## Related

**Cross-Reference:**
**Revision History:**

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 16.21 – No Trespass Directive – Restricted Campus Access

arp.nmsu.edu/16-21

## PART 1: CONDUCT ON NMSU CONTROLLED PROPERTY

In order to establish a safe environment and preserve university property for educational purposes, the NMSU Board of Regents (NMSU) reserves the right to prohibit or restrict access to any property under its control. ***The University officials and administrators authorized by this rule to take action may designate an alternate university official or employee to take such action on their behalf.***

1. **Use of NMSU Property**: NMSU property and facilities are for the use of individuals engaged in activities undertaken in furtherance of the NMSU mission. Academic space is reserved for educational purposes, and campus housing and immediately surrounding property are reserved for use by qualifying members of the university community. Some university facilities and the grounds may be open to the general public during university business hours, and all activities and events must be scheduled consistent with NMSU rules and regulations (e.g. **ARP 3.63**, **ARP 12.70**, **ARP 12.71**, **ARP 16.04**, **ARP 16.05** and **ARP 18.61**). The public may contact the appropriate facility scheduling authority to inquire about the use of a specific space or facility controlled by NMSU.
2. **No Overnight Stays**: NMSU prohibits overnight stays on NMSU controlled property, including but not limited to, in motor vehicles, or in temporary or permanent structures, without (1) a contract or other written permission to do so. The Relevant Campus President is authorized to issue written permits for overnight stays.

3. **Prohibited Conduct**: Individuals are required to abide by applicable state and federal laws, as well as NMSU policies, rules and procedures ("policies") while on university property. Conduct which violates university policies or the law; interferes with educational mission; creates an actual or perceived risk to the safety of the campus community; or which disrupts, impairs or obstructs university activities, procedures, functions or residential life on campus is prohibited. Such conduct is governed by this rule regardless of whether that conduct occurs on or off NMSU controlled property, if the consequences of the conduct will have a continuing adverse impact to NMSU or to members of its community.
4. **Consequences for Violation**: Sanctions for violations will be commensurate with the degree of harm or damage threatened or resulting from the violation and include: warning, arrest and removal from the campus, issuance of a No Trespass Directive, civil or criminal prosecution, or other disciplinary action or sanction afforded under NMSU policies or state or federal law.

## PART 2: DEFINED TERMS

The following definitions apply for purposes of this rule, and capitalization indicates that it is a defined term:

A. **Day:** Day is defined as a university business day (Monday through Friday, from 8:00 a.m.to 5:00 p.m.), and excludes NMSU official holidays and other closures.
B. **No Trespass Directive (or NTD):** A written notification that the individual named in the NTD must not enter the specified property or facilities owned or controlled by NMSU for a specified time. An NTD provides notice that any future physical presence or interference with the specified property will be an illegal trespass, which may result in criminal charges or subject the individual to administrative or civil action for violating the directive.
C. **Relevant Campus President:** The president of the NMSU campus responsible for the location where the incident giving rise to action pursuant to this rule occurred.
D. **Student:** See definition of Student in **ARP 5.20 – Student Social Code of Conduct**, Part 6 S.
E. **Visitor:** Any person on campus who is not a NMSU student or employee.

## PART 3: OFFICIALS AUTHORIZED TO ACT

The officials listed below are authorized to initiate an appropriate administrative response to violations of this rule (See Part 1 D.), which may include issuance of a No Trespass Directive. No Trespass Directives may be temporary in nature or of longer duration, and may restrict an individual's access from a specific location or from all NMSU owned or controlled property.

A. **NMSU Police Department**: NMSU police officers may issue a Temporary No Trespass Directive to any person, for the protection of public safety and the protection of personal and real property located on university premises.
B. **Office of Institutional Equity**: The Office of Institutional Equity (OIE) may issue a Temporary No Trespass Directive to any person as an interim measure imposed in conjunction with a Title IX case.
C. **Dean of Students**: The dean of students may issue a No Trespass Directive to a student as an interim protective measure, or as part of a sanction pursuant to the Student Social Code of Conduct.
D. **Human Resource Services**: The assistant vice president of human resource services may issue a No Trespass Directive to an employee in conjunction with placing an employee on administrative leave pending internal investigation, or as part of the employee disciplinary process or sanction.
E. **Relevant Campus President**: Each campus president or authorized designee may issue a No Trespass Directive to Visitors.

## PART 4: GROUNDS JUSTIFYING NO TRESPASS DIRECTIVE

No Trespass Directives may be issued when one or more of the following applies:

A. **Criminal Charges Pending for Crime against NMSU**: The individual is charged with criminal acts relating to damage to NMSU property or direct threat or actual harm to any Students or other members of the university community.
B. **Criminal Conviction for Crime against NMSU**: The individual is convicted of criminal acts resulting in damage to NMSU property or direct threat or actual harm to Students or other members of the university community.

C. **Unreasonable Risk of Harm to NMSU**: The individual's conduct presented, or continuing presence on campus is reasonably believed to constitute, an unreasonable risk of harm to NMSU property or the safety, security and well-being of Students or other members of the university community, including their personal property, based on credible facts as may be determined by the relevant NMSU official.

## PART 5: NTD ISSUANCE, EFFECTIVE PERIOD; CONSQUENCES FOR VIOLATION

A No Trespass Directive may be issued for only a specific campus or location on campus, or may apply generally to prohibit access to all NMSU owned or controlled property.

A. **Temporary No Trespass Directive**: To be able to timely address incidents that occur at all hours and locations, the issuance of a Temporary No Trespass Directive is authorized when one or more of the grounds described above in Part 4 are met.
    1. Form: A template for a Temporary NTD may be obtained from NMSU Police Department.
    2. Effective Period: A Temporary NTD is typically delivered in person and remains in effect no later than 5:00 p.m. of the second full Day following its issuance. (Examples: If a Temporary NTD is issued at 3:00 a.m. early Tuesday morning, it will be valid through 5:00 p.m. on Wednesday; if a Temporary NTD is issued at 3:00 p.m. on Tuesday afternoon, it will be valid through 5:00 p.m. on Thursday.)

B. **No Trespass Directive:** Pursuant to the following, the campus presidents (or their respective authorized designees) are authorized to issue No Trespass Directives:
    1. Form: A template for an NTD may be obtained from the NMSU Police Department.
    2. Review by Legal Counsel: Requests for NTD's will be reviewed in consultation with university legal counsel as needed to determine whether the facts provided in support of the request meet the criteria provided in Part 4 above.
    3. Effective Period: The NTD will be valid upon valid notice to the individual, and effective through the date indicated on the NTD. If no date is indicated, the NTD will be considered a continuing NTD, and will be subject to the petition process described below in Part 7 C.
    4. Notice to Individual: Upon issuance of an NTD, the individual will be notified (1) through personal delivery, (2) by email or USPS mail, or (3) by any other means determined reasonably likely to give the individual actual notice. Notice will be deemed complete upon receipt when personally delivered, and upon third calendar day following the date of dispatch.
    5. Delivery Certification: The method of delivery to the individual subject of the NTD will be signed by the NMSU representative causing it to be delivered. This delivery certification will be forwarded to the issuing administrator, who will send a copy of the complete NTD with delivery certification to the NMSU Police Department and to the University General Counsel.

C. **Consequences for Violation of NTD**: A violation of a NTD may result in legal action against the individual, including criminal charges. Any local police department with jurisdiction is authorized, and requested to, arrest any individual found to be present on NMSU property in violation of a NTD.

## PART 6: ENTRY OF NO TRESPASS DIRECTIVE INTO CENTRALIZED DATABASE

The NMSU Police Department will provide an electronically maintained databased for the authorized departments' viewing and recording purposes. The issuance and expiration dates of a No Trespass Directive any other changes in the status of an NTD must promptly be recorded by the issuing department (or by the Police Department on that department's behalf) to enable law enforcement action to be taken based on the entry.

# PART 7: CHALLENGES TO, AND EXCEPTIONS FROM, NO TRESPASS DIRECTIVE

A. **Challenge to NTD Issued in Conjunction with Student/Employee Disciplinary Process**: Students and employees who receive an NTD as part of a student conduct process or employee discipline must utilize the applicable disciplinary appeal process if they wish to challenge an NTD.

B. **Challenge to Issuance of NTD**: Visitors who believe they have been wrongfully issued an NTD, due to a mistake in the material facts provided in support of the NTD, a hardship resulting from the restriction or other impropriety in the issuance of the NTD, may submit a written Request for Relief from NTD, attaching relevant supporting documentation, if any.
    1. The NMSU official who issued the NTD will consider the Request for Relief with new information provided, if any, in consultation with their supervisor and/or Relevant Campus President.
    2. A Determination will be issued that either upholds, modifies or rescinds the NTD.
    3. The Determination will be emailed or mailed, as appropriate to the individual at the email or other address provided by the individual on the Request for Relief from NTD.
    4. The NTD remains in effect while this reconsideration is pending.
    5. Requests to access university property for a specific purpose and time duration as a permitted exception to the terms of a NTD that is in effect will only be considered if submitted via email, mail or in person delivery by someone other than the individual subject to the NTD to the NMSU Police Department.

C. **Petition to Terminate Continuing NTD:** After a minimum of one year from the date of issuance, an individual subject to a continuing NTD may petition for termination of the NTD, by submitting a Petition to Terminate NTD to the Relevant Campus President. With respect to individuals convicted of criminal acts against the university, its Students, or employees, such requests may not be submitted until at least one year after the individual has completed their sentence, the details of which must be addressed in the Petition.
    1. Petitions will be considered by the Relevant Campus President, in consultation with legal counsel and the university police department, taking into consideration the justification provided by the petitioner, the interests of the university and those of other third parties potentially affected by termination of the NTD.
    2. If granted, the Petitioner must confirm that any NTD terminated pursuant to this provision is entered into the NMSU Police Department database before accessing the previously restricted NMSU property.

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 16 | Safety and Risk Management

**Rule Administrator:** AVP Human Resource Services, Campus Presidents, Dean of Students, Executive Director Institutional Equity, NMSU Police

**Last Updated:** 11/12/2019

## Related

**Cross-Reference:**
**ARP 5.20 – Student Social Code of Conduct**

**Revision History:**
11/12/2019 Amendment approved by Chancellor
04/12/2019 Amendment approved by Chancellor
2017 Recompilation, formerly Rule 3.10

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 16.30 – Authorization of Health and Safety Programs

arp.nmsu.edu/16-30

It is the policy of the university to promote good health, wellbeing, and occupational safety for its faculty, employees, students, and visitors. The Office of Environmental Health and Safety develops and executes comprehensive health and safety programs for the university. These programs comply with all federal, state, and municipal laws, codes, acts, regulations and standards relating to health, safety and the environment. These environmental health and safety rules and procedures, along with current details of responsibility and accountability for various issues, can be found on the Office of Environmental Health and Safety web page NMSU: Environmental Health and Safety.

These administrative rules and procedures endorse programs which:

A. Provide safe and healthful conditions and reduce injuries and illnesses to the lowest possible level. No task is so important and no service so urgent that it cannot be done safely.
B. Assure compliance with federal, state, and local regulations providing for environmental health and occupational safety.
C. Provide information, training, and safeguards to faculty, staff, and students regarding health and safety hazards, and to the surrounding community regarding environmental health hazards arising from operations and events at the university.
D. Install and maintain facilities and equipment in accordance with recognized and accepted standards essential to reduce or prevent exposure to hazards by faculty, staff, students, and visitors.
E. Provide appropriate personal protective equipment to all employees at university expense when engineering controls are not adequate to minimize exposure.
F. Provide medical services as required by law and as may be dictated by existing circumstances or programs.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 16 | Safety and Risk Management

**Rule Administrator:** Executive Director Environmental Health and Safety and Risk

Management

**Last Updated:** 10/03/2017

## Related

**Cross-Reference:**
**Revision History:**

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 16.31 – Reporting of Work-Related Accidents/Incidents

arp.nmsu.edu/16-31

A. Regulatory and occupational safety classes are provided on a regular basis by the Office of Environmental Health and Safety (For information and schedule visit NMSU: Environmental Health and Safety)
B. The environmental health and safety officer monitors all accidents and may conduct an investigation.
C. Copies of all Employer's First Report of Accident Forms and Supervisor's Accident Investigation Report Forms are sent to the environmental health and safety officer by the human resource services office.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 16 | Safety and Risk Management

**Rule Administrator:** Executive Director Environmental Health and Safety and Risk Management

**Last Updated:** 10/03/2017

## Related

**Cross-Reference:**
**Revision History:**

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 16.40 – Legal Matters

arp.nmsu.edu/16-40

## PART 1: ROLE OF UNIVERSITY GENERAL COUNSEL

The office of University General Counsel (UGC) serves a risk management function for the university by providing leadership in legal compliance initiatives, policy development, and management of third party legal claims and complaints.

Although attorneys may work for NMSU in other departments, the attorneys in the UGC office are the only attorneys authorized to take a legal position or otherwise represent NMSU. The UGC's client is the institution, by and through its governing body, the Regents of New Mexico State University (NMSU), rather than the individual board members, administrators or employees.

UGC coordinates, directs and reports on all legal services provided to NMSU. Any NMSU entity which seeks legal assistance from an outside attorney must coordinate that effort through UGC. NMSU maintains a list of law firms contracted to provide outside legal services to NMSU. The list is available for review by any NMSU administrator.

## PART 2: ACCEPTANCE OF LEGAL DOCUMENTS

Only the attorneys in the UGC office are authorized to accept service of legal process in the form of summons and complaints, subpoenas, writs, agency charges, and similar official legal documents. Any NMSU personnel who are asked to sign for such documents should decline to accept, and instead direct the courier to the office of UGC. In the event that such items are received in error, the University employee accepting such documents, or their supervisor, should notify UGC immediately and deliver all original documentation to the UGC office.

## PART 3: LIABILITY COVERAGE

NMSU maintains liability coverage against many legal claims through the State Public Liability Fund administered by the N.M. Risk Management Division (RMD). The General Counsel is NMSU's single point of contact with RMD regarding these claims. (The NMSU EHS & RM Department is the RMD point of contact for all internal **property** claims.)

## PART 4: LEGAL REPRESENTATION

UGC is authorized to provide representation and defense for NMSU officials, employees and volunteers who may be named in a lawsuit or other legal proceeding which results from the performance of their official duties for NMSU, and to the extent authorized by state law. For covered liability claims, RMD will appoint outside counsel to represent NMSU and any NMSU officials, employees and volunteers named as defendants based on their performance of official duties and responsibilities for NMSU. Representation is provided for individuals named as defendants in both their individual and professional capacities as long as the general counsel or RMD, as applicable, determines that they were acting within their official duties and responsibilities for NMSU.

## PART 5: SIGNATURE AUTHORITY

No university employee has authority to sign any agreement or contract with an external entity except as explicitly authorized by the Regents or the Chancellor. UGC will maintain written signature authority documentation as evidence of such authority, and will make that documentation available on the university website. For any type of document or agreement for which no signatory is specified in the signature authority document, UGC is authorized to designate the appropriate signatory.

Irrespective of signature authority, official contracts or agreements should have the approval of the UGC as to form prior to signature. Contracts, agreements and other documents requiring signature should be routed through the relevant NMSU entities for review and comment, using a contract routing approval form. Such documented routing allows the ultimate signatory to see that the relevant units have reviewed, approved or expressed a concern, and are prepared to fulfill the obligations as set forth in the document.

## PART 6: ACCESS TO UNIVERSITY LEGAL COUNSEL

UGC resources are directed primarily to advising the Board of Regents, the chancellor and NMSU administrators who represent the institution's management. The members of the University Administrative Council may call UGC directly to make appointments for legal

consultation or document review, or may email inquiries to gencounsel@nmsu.edu. Other university employees who wish to discuss official university business with an attorney in UGC may, with the concurrence of appropriate department head/director and dean/vice president, email the inquiry or request for an appointment to gencounsel@nmsu.edu, with a copy to the immediate supervisor and the cognizant dean, vice president or associate vice president. The UGC attorneys do not provide personal legal advice to NMSU employees or students. NMSU managers and employees should not refer students and employees who have claims adverse to NMSU to UGC, but rather to the appropriate administrative office unless the individual has retained legal counsel, in which case their legal counsel should be referred to UGC.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 16 | Safety and Risk Management

**Rule Administrator:** General Counsel

**Last Updated:** Not Available

## Related

**Cross-Reference:**
**Revision History:**

4/10/2018 Ammendments approved by Chancellor

2017 Recompilation, formerly Rule 2.40

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 16.45 – Auditors, External

arp.nmsu.edu/16-45

The university external auditors shall be selected and retained according to the guidelines provided in the state auditor's rules currently in force. The Board of Regents reserves the right to apply stricter guidelines in selecting and retaining external auditors than those required by the state auditor's rules.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 16 | Safety and Risk Management

**Rule Administrator:** Senior VP for Administration and Finance

**Last Updated:** 09/26/2017

## Related

**Cross-Reference:**
**Revision History:**

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 16.46 – Auditors, Internal – Office of Audit Services

arp.nmsu.edu/16-46

## A. Purpose

This policy establishes and authorizes the Office of Audit Services as the administrative unit tasked with performing internal audit functions, and reporting to the various NMSU components, the Regents Audit Committee of the Board of Regents, and the Chancellor and/or the Board of Regents.

## B. Mission and Internal Audit Function

The Office of Audit Services provides university-wide, independent, objective assurance and consulting services designed to add value to, and improve university operations. It helps the university community accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes. The Office of Audit Services assists members of management in effectively carrying out their respective responsibilities by determining whether the organization's network of risk management, control and governance processes are adequate to ensure that:

1. Risks are appropriately identified and managed;
2. University policies and procedures, and external laws and regulations are followed;
3. Resources are acquired economically, used efficiently, and are adequately protected;
4. Significant financial, managerial and operational information is accurate and reliable;
5. Program objectives are achieved and are consistent with university objectives.

## C. Authority

The internal audit staff is authorized full, free and unrestricted access to all university records in any form; to all facilities and real estate; and to all personnel relevant to an audit. With approval from the NMSU affiliated organization, internal audit staff may review records

of affiliated organizations in conjunction with a specific university audit. Internal audit staff is correspondingly responsible for handling documents and information obtained in a prudent and ethical manner.

## D. Neutrality

Internal auditors will avoid participating in activities that might reasonably appear to compromise their independence or objectivity. They will have no direct responsibility or authority over any of the operating activities examined, and their review does not relieve operating personnel of their responsibilities.

## E. Internal Audit Duties

The chief audit executive and staff of the Office of Audit Services have responsibility to:

1. Develop a flexible annual audit plan using appropriate risk-based methodology, including concerns identified by management, and submit the plan to the audit committee for review and approval;
2. Operate in accordance with the International Standards for the Professional Practice of Internal Auditing and the Code of Ethics of the Institute of Internal Auditors;
3. Provide audit reports and memoranda that contain reasonable and cost-effective recommendations for control issues identified, and facilitate the resolution of audit issues with appropriate managers;
4. Suggest the need for policies and procedures where appropriate, or changes to existing policies and procedures;
5. Perform appropriate assurance and consulting services to assist management in meeting its objectives;
6. Assist in the investigation of significant suspected fraudulent activities within the university;
7. The chief audit executive serves as an *ex officio* member of the University Administrative Council.

## F. Reporting Structure

In order to maintain independence, the staff of the Office of Audit Services reports to the chief audit executive, who reports administratively to the Chancellor and functionally to the Board of Regents. The chief audit executive shall meet with the Regents Audit Committee periodically, as outlined in its Charter, and will present an annual report on the activities and operations of the department.

## G. Scheduling Audit Projects and Reporting Results

With the exception of emergency audits and those requiring an element of surprise, audit clients will receive advance notice of planned audits and the Office of Audit Services staff will make reasonable efforts to accommodate client needs in terms of scheduling.

1. Audits involving suspected fraudulent activities are processed differently from other internal audits, so as not to compromise a police investigation or personnel action.
2. At the conclusion of an audit project, the chief audit executive will issue a formal report or audit memorandum to the audit client and appropriate members of senior management.
3. On an annual basis or as time permits, the Office of Audit Services staff will perform a follow-up on formal recommendations included in audit reports and memoranda. Follow-up reports will summarize the status of audit issues and any actions taken by management to resolve the issues. Any items not resolved at the conclusion of a second follow-up, will be referred to the Chancellor and to the Regents Audit Committee for resolution.
4. Results of audit work are shared with the Regents Audit Committee members and with the Board of Regents on an annual basis, or more often if appropriate.

# Details

**Scope:** NMSU System
**Source:** ARP Chapter 16 | Safety and Risk Management

**Rule Administrator:** Chief Audit Executive

**Last Updated:** 09/26/2017

# Related

**Cross-Reference:**
**Revision History:**

*[Amendments approved by the Board of Regents 07.23.07]*

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 16.60 – Permitted Alcohol on NMSU Premises

arp.nmsu.edu/16-60

## A. Statement of Purpose

The Board of Regents of New Mexico State University recognizes that diversity of opinion and freedom of choice are concepts upon which higher education has been established. Inherent within these two basic concepts are the exercise of individual responsibility and making informed decisions on matters related to personal behavior.

Within the university setting, faculty, staff and students must demonstrate a mutual respect and commitment to the institution's educational mission while at the same time fostering diversity of opinion, freedom of choice, and responsibility. In this regard, the university respects the right of those of legal age to consume alcohol if they so choose, providing they do so in accordance with this policy and all applicable laws.

This policy shall apply to every function or event, including but not limited to receptions, banquets, dinners, picnics, or any outdoor event, social event, and campus-wide activity sponsored by organizations or individuals associated with NMSU. Off-campus events conducted by university approved organizations are bound by this policy.

NMSU recognizes it cannot protect its employees, and students from making decisions that could potentially cause harm to themselves or others. NMSU disclaims any intention to assume duties to protect its employees and students from their own abuse of drugs or alcohol or to protect third party persons from conduct of the employees or students.

## B. Permissible Use of Alcohol

As allowed pursuant to this policy, the use of alcohol shall be considered a privilege and may be allowed only if consistent with local, state and federal laws and university policy, and only when it does not interfere with the academic atmosphere of the university.

1. Students of legal age are allowed to use alcohol only in a manner consistent with this policy and the Student Code of Conduct.
2. Students who reside on campus and are 21 years of age or older may possess and consume alcohol consistent with the law and in areas designated by the director of housing and residential life. See Housing Terms and Conditions for those areas designated as “alcohol free”, if any.
3. Selling, either directly or indirectly, of alcoholic beverages on campus is prohibited, except in those university facilities possessing a state alcohol license granted under the authority of the Board of Regents or where pre-approved by the Office of the NMSU Chancellor by event type. The Office of the NMSU Chancellor is authorized, in its discretion, to approve the serving or sale of alcohol at any other on-campus events. All venues approved for the routine sale of alcoholic beverages must have in place an approved policy for the sale and service of alcoholic beverages.
4. Members of the university community and/or the public wishing to host or otherwise conduct an event involving alcohol on campus or other NMSU property must first obtain the proper approval from the Office of the NMSU Chancellor.
    a. Some functions may also require the party to have separately and previously obtained an appropriate permit in accordance with the state’s liquor licensing laws; the Office of the Chancellor will not approve a function if the proper state permit has not been obtained.
    b. Student groups, campus organizations and Greek affiliates who wish to host events involving alcohol must have proper policies in place, consistent with university policies and local, state and federal laws, before the Office of the NMSU Chancellor will approve the event for alcohol.
    c. Student fees may not be used directly to purchase alcohol. However, in certain cases, student fees may be used to fund events where alcohol may be served, provided the appropriate approvals and/or state issued permits are obtained, in accordance with this policy.
    d. State law requires that anyone serving alcohol must complete a class and receive a Server’s Permit.
    e. If the consumption of alcohol is a normal part of an academic class, written approval for use must be obtained from the Office of the Executive Vice President and Provost, with a positive recommendation from the Alcohol Review Committee.
    f. Approval for alcohol at an event is to be requested from the Office of the NMSU Chancellor. For and Application and Instructions, please contact the chair of the Alcohol Review Committee at 575-646- 5752. The Alcohol Review Committee will review the application and make its recommendation to the Office of the NMSU Chancellor.
    g. The decision by the Office of the NMSU Chancellor is final.

## C. Unacceptable Use of Alcohol

NMSU recognizes that the illegal use of alcohol interferes with the academic environment of this institution and the personal growth of its students.

1. NMSU explicitly prohibits the unlawful use, possession, sale, or distribution of alcohol or controlled substances by all students and employees. Any violation of applicable local, state, and/or federal law is considered to be a violation of this institution's policies.
2. Corrective and/or disciplinary action will be taken if it is determined that the use of alcohol by an employee or student threatens to create disorder, public disturbances, danger to themselves or others, or property damage.
3. Students who have not yet reached legal age are prohibited from purchasing, using, and/or possessing alcohol.
4. Except as outlined by this policy, consumption or possession of alcohol intended for consumption is prohibited on the university campus. Possession of alcohol on NMSU property intended for consumption is allowed for the sole purpose of prompt delivery to the location approved for such consumption.
5. Open containers of alcohol are prohibited outside of designated areas.
6. Kegs or other common containers are not allowed, unless in conjunction with an event approved by the Office of the NMSU Chancellor.

## D. Alcohol-Related Misconduct

1. Possession of false identification. Students found in possession of or attempting to use false identification in order to procure alcohol will be subject to the fullest force and effect of the consequences outlined in this policy and/or the ***NMSU Student Code of Conduct***.
2. Alcohol as an aggravating factor to other violations. If alcohol is found to be an aggravating factor in other violations of the ***NMSU Student Code of Conduct*** and/or local, state and federal laws, the student may be subject to more severe punitive sanctioning.
3. Off-campus violations of ***NMSU Student Code of Conduct*** . The university reserves the right to impose sanctions upon students and student organizations that violate this policy and/or the ***NMSU Student Code of Conduct*** , even if such actions occurs off-campus.

## E. Consequences for Violations

1. Students or employees found to be in violation of this policy may be subject

to corrective and/or disciplinary action appropriate to the severity of the violation, in accordance with the appropriate administrative process.

2. Employees or students found to be in violation are also be subject to all local, state and federal laws and nothing in this policy shall be construed to protect employees or students from such actions as local, state and/or federal law enforcement deem appropriate. Similarly, if local, state and/or federal law enforcement entities decide not to pursue action against violators, the university reserves the right to process violations through the appropriate administrative office.
3. Employees or students who have not been found to be in violation of any of the policies herein who wish to self-identify and seek confidential help through the Employee Assistance Program, Counseling Center and/or the Wellness, Alcohol and Violence Education Program, will not jeopardize their employment or academic status. This benefit will continue as long as the employee or student refrains from further alcohol misuse and/or abuse.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 16 | Safety and Risk Management

**Rule Administrator:** Chancellor

**Last Updated:** 01/30/2012

## Related

**Cross-Reference:**
**ARP 18.81 – Tailgating Activities**

**RPM 16.60 – Alcohol at NMSU Including Sanctioned Events**

**Tailgating Regulations**

**Revision History:**

2017 Recompilation, formerly 3.05 A–G
01/30/2012 Amendment approved by Board of Regents
07/20/2010 Amendment approved by Board of Regents
09/08/2006 Amendment ratified by Board of Regents
10/11/2005 Amendment approved by Administrative Council

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 16.63 – Smoking and Tobacco Use Restrictions

arp.nmsu.edu/16-63

## PART 1: PURPOSE

This rule promotes the health, wellness and safety of its employees, students and visitors, while respecting individual choice, consistent with the New Mexico Clean Indoor Air Act (NMSA 1978 §§ 24-16 – 1 et seq). Smoking, for purposes of this rule, means inhaling, exhaling, burning, carrying or holding any lighted tobacco product, including all types of cigarettes, cigars and pipes, as well as electronic cigarettes and similar products which release ultrafine particulates and nicotine with exhaled vapor.

## PART 2: SMOKING-PROHIBITED AREAS

1. Smoking is prohibited in the following locations:
    1. University owned and operated buildings and facilities including classrooms and laboratories, offices, campus housing units, food service venues, restrooms, and all venues for university sponsored athletic and other special events;
    2. Near public entrances and exits, open windows and ventilation systems of the buildings and facilities where smoking is prohibited. "Near" will be applied to mean a distance of 25 feet; however, if this distance presents cause for concern as applied, the issue will be resolved in favor of a distance that is sufficient to ensure that persons entering or leaving the building or facility are not subjected to breathing smoke and to ensure that smoke does not enter the building or facility through entrances, windows, ventilations systems or other means.
    3. Partially or fully enclosed walkways, corridors, elevators;
    4. Vehicles owned, leased or rented by the university;
    5. Within 50 feet of any area where flammable materials are handled or stored, or where other significant fire hazard may exist;
    6. Outdoor areas designated as "No Smoking" areas; and
    7. Outdoor areas during NMSU sponsored events.
2. Signage will be posted at the public entrances of buildings to clearly and conspicuously indicate that smoking is prohibited inside the building and within 25 feet of the entrance.

## PART 3: SMOKING-PERMITTED AREAS

Smoking is permitted outdoors on university property except as specifically prohibited above.

## PART 4: DISPOSAL OF TOBACCO WASTE

Anyone who smokes or uses smokeless tobacco on campus or other property owned and operated by NMSU must discard the waste in a safe and sanitary manner.

## PART 5: NON-RETALIATION

Retaliation in any form against persons who exercise their rights afforded by this rule or by state law is strictly prohibited. Complaints of retaliation will be investigated, and if substantiated will be grounds for employee or student discipline in accordance with university policies, rules and procedures. Complaints of retaliation should be filed in accordance with university rules and procedures.

## PART 6: COMPLIANCE

Complaints and concerns regarding alleged violations of this rule are taken seriously. The following steps will be taken to address complaints:

1. Complaints or concerns about the application or enforcement of this rule should be referred first to any supervisor in the affected building or facility for an informal and prompt resolution, which may simply involve an informal warning that the individual's activities are in violation of this rule and state law and what action they should take to be in compliance.
2. If the person in receipt of a complaint or concern is not able to informally resolve the matter, the matter may be referred to the appropriate supervisor (if the violator is an employee) and to the dean of students (if the violator is a student). In all cases, a complainant should be informed of the option of filing a formal complaint with Environmental Health, Safety and Risk Management.
3. In response to a formal complaint that an employee or a student has violated this rule, the supervisor or Environmental Health, Safety and Risk Management will coordinate an investigation and resolution, including mediation or potential disciplinary action, with the Dean of Students (for students) or the Director of HRS-Employee and Labor Relations (for employees).
4. Individuals who refuse to comply with this rule must be informed that they are in violation of not only university rules, but also state law, which has monetary penalties for violators.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 16 | Safety and Risk Management

**Rule Administrator:** Executive Director Environmental Health and Safety and Risk Management

**Last Updated:** 03/13/2018

## Related

**Cross-Reference:**
**Revision History:**

03/13/2018 Amendment approved by Chancellor

2017 Recompilation, formerly 3.98 - Smoking Rule

10/21/2015 Board of Regents approved replication of Policy 3.98, Smoking Policy as initial Rule 3.98

05/09/2006 Amendment approved by Administrative Council; 09/08/2006 Amendment ratified by Board of Regents

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 16.65 – Drug and Alcohol Free University Community

arp.nmsu.edu/16-65

The university is a recipient of federal grants and contracts in excess of $100,000 and is subject to the provisions of the Drug-Free Workplace Act of 1988, the special Drug-Free Workforce rules promulgated by the Department of Defense, and the Drug Free Schools and Communities Act. The Board of Regents has directed the Chancellor to institute and maintain programs that meet the requirements of federal drug and alcohol regulations. These programs are administered through the Office of Human Resource Services.

## A. **General Policy Prohibiting Drugs and Alcohol on NMSU Property**

The unlawful possession, use, or distribution of illicit drugs and alcohol on its property or as part of any of its activities is prohibited and a violation of university policy. University property is defined as all lands and building under the control of the Board of Regents. It is a federal requirement and a university policy that, as a condition of employment, an employee will notify the immediate supervisor within 5 days after conviction of a criminal drug offense occurring in the workplace. Supervisors will inform the Office of Human Resource Services, through appropriate channels, of any notifications received.

## B. **Disciplinary Sanctions for Employees**

Employees who violate the university's alcohol or drug policies are subject to termination, demotion, or suspension. Additionally, employees may be required to report to the Employee Assistance Program for a clinical assessment and participate in a recommended counseling/rehabilitation program. When returned to work, the employee must comply with all university policies and maintain acceptable job performance or be subject to appropriate disciplinary action.

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 16 | Safety and Risk Management

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 09/21/2017

## Related

**Cross-Reference:**
**Revision History:**

*[Amendment approved by the Administrative Council 07.08.08; adoption of the amendment ratified by the Board of Regents 07.15.08]*

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 16.68 – Regulation of Fires, Fireworks on NMSU Premises

arp.nmsu.edu/16-68

This fire prevention Rule establishes fire restrictions for the main campus to include the main campus, university owned lands east of Interstate 25, the Horticulture Farm, the Horse Center, and the Leyendecker Plant Science Farm. The following acts are prohibited unless an appropriate permit has first been obtained through the university fire department: (1) building or using an open fire on university land; and (2) use of all fireworks on university land.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 16 | Safety and Risk Management

**Rule Administrator:** NMSU Fire Chief

**Last Updated:** 10/25/2017

## Related

**Cross-Reference:**
**Revision History:**

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 16.69 – University Related International Travel

arp.nmsu.edu/16-69

## PART 1: PURPOSE

Due to heightened risks associated with international travel, and in the interest of the safety and security of university students and personnel, the university requires additional information and imposes additional procedural requirements for its students, faculty, staff and affiliates who travel abroad.

## PART 2: DEFINITIONS

A. **NMSU Entity:** NMSU Entity, sometimes also referred to as "unit", is a general term which may refer to a college, a department or any other individual administrative unit within the NMSU System, including but not limited to agricultural experiment stations. Private not-for-profit corporate entities recognized to be affiliated with NMSU for fundraising, research, public service, or student activity purposes, while subject to certain NMSU policies, rules or procedures to maintain recognized status, are not considered "NMSU entities", and if located on NMSU premises, are referred to as "External Entities".

B. **University Related International Travel:** Travel that is at least one of the following:
   1. funded by any NMSU entity in whole or in part;
   2. within the course and scope of employment of the participant as approved by the relevant supervisor;
   3. organized by any NMSU entity approved through International and Border Programs; or
   4. An essential component of an academic credit-bearing course at NMSU.

## PART 3: ROLES AND RESPONSIBILITIES OF INTERNATIONAL AND BORDER PROGRAMS

A. International and Border Programs is the repository on behalf of the institution for the information relating to NMSU students, faculty, staff and affiliates traveling abroad.

International and Border Programs is responsible for managing the application and enrollment process for Education Abroad programs, and the processing of requisite forms and other documentation indicating that the pre-requisites for all international travel by NMSU students and personnel have been met. This role facilitates IBP's ability to monitor the global location for NMSU faculty, staff and students and to provide resources, support, or assistance as may be needed.

B. The requisite forms and procedural guidance are made available at https://ibp.nmsu.edu/.

C. To assist with risk management and other issues, the associate provost of International and Border Programs may call on representatives from across the NMSU system to convene as an advisory committee as needed to provide review and recommendation on specific issues.

# PART 4: PROCEDURES FOR UNIVERSITY RELATED INTERNATIONAL TRAVEL

A. **Related Travel Rules:**

1. Travelers should review the university's general rules regarding travel. (*See* **ARP 14.69 – Academic and Business Travel**; NMSU Business Procedures Manual, Section 5C.).
2. If the travel is for participation in an Education Abroad program, the traveler should follow the application and enrollment process set forth in **ARP 16.70 – Education Abroad**, which will satisfy the requirements of this rule through the coordination between the Office of Education Abroad and International and Border Programs.

B. Prior to commencing international travel, participants must complete the Travel Authorization Forms provided by International and Border Programs, indicating the appropriate administrative approvals. The following guidelines are to assist the traveler in understanding the manner in which International and Border Programs will process Travel Authorization Forms:

1. Participants must review and acknowledge that they understand that international travel involves heightened risks to personal safety, requires compliance with laws and regulations of the destination which may be quite distinct from U.S. laws, and that they have read the U.S. State Department's website for the destination, which may include Travel Alerts, Travel Warnings and other "Country Specific Information". *See:* State.Gov. If the proposed international travel involves a destination subject to a Travel Alert or Travel Warning, additional protocols apply. (*See* Part 5 below).

2. All NMSU employees and students undertaking University Related International Travel must purchase the required insurance (*See* NMSU Business Procedures Manual 5C. 10.)
3. Using the forms provided by International and Border Programs (https://ibp.nmsu.edu/), the participant must identify the specific program, all destinations, and travel start and end dates. Additionally, if personal travel is planned immediately prior or following the University Related International Travel, the dates and destinations for such personal travel must also be identified.
4. The relevant supervisor or administrator responsible for the source of funding must approve and sign the completed travel forms prior to submission to International and Border Programs.

# PART 5: TRAVEL TO DESTINATIONS SUBJECT TO TRAVEL ALERTS OR TRAVEL WARNINGS

Significant travel risk exists when the U.S. Department of State issues Travel Alerts or Travel Warnings about a particular foreign country, region, state, city or locale. University Related International Travel to destinations subject to such Alerts or Warnings is discouraged and is subject to additional scrutiny as set forth below.

## A. Employee Travel

Some circumstances may involve travel to destinations subject to a Travel Alert or Travel Warning (e.g. demands of the university's contract or research obligations, work with key partners, etc.). Any employee seeking approval for international travel to such destinations must exercise due diligence, give careful consideration to the available information, and weigh the risks and benefits relative to the educational opportunity or business need for such travel. For all international travel to destinations subject to Travel Alerts or Travel Warnings each traveler must complete the Supplemental Information Form required by International and Border Programs. *See the International and Border Programs site for additional information.* The associate provost for International and Border Programs will review the supplemental information, the Travel Alert or Travel Warning associated with the specific destination, and approve or deny the proposed travel. Denials may be subject to additional review by the executive vice president and provost at the discretion of the associate provost or at the request of the traveler or supervisor.

## B. Student Travel

1. International travel by students to destinations subject to a U.S. State Department Travel Alert or Travel Warning is prohibited, absent permission granted by the

executive vice president and provost. Student requests for such travel may be made by submitting a completed, signed *Student Request for Exception to Travel Warning* form provided by International and Border Programs. The student must provide a justification for the travel, including steps that will be taken to mitigate the dangers or concerns mentioned in the Travel Alert or Travel Warning as they relate to the program location, activities and related implications.

2. The associate provost for International and Border Programs will review the student's travel justification, weigh the safety risks compared with the benefits associated with the proposed international travel, and make a recommendation to the executive vice president and provost, who will approve or deny the request. If the request is granted, the student(s) must comply with the requirements in Part 4 above, which will include execution of a Waiver and Release of Liability form provided by International and Border Programs.
3. Absent approval by the executive vice president and provost, the university will not fund student travel to destinations subject to U.S. State Department Travel Alert or Travel Warning, nor award academic credit or recognition for research or activities.

### C. Trip Cancellation or Modification:

1. Approvals for travel to destinations subsequently subject of a Travel Alert or a Travel Warning or other emergent circumstance may be revoked by the executive vice president and provost, in consultation with the associate provost of International and Border Programs. If the prior approval is revoked, the participant will be advised to return to NMSU or to some other destination.
2. If a participant received funding prior to the imposition of the Travel Alert or Travel Warning, and has not yet embarked on travel, the participant will be required to return the funding as directed by International Border Programs. If funds have been reasonably expended in furtherance of the activity before the issuance of the Travel Alert or Travel Warning, the supervising/sponsoring unit head shall consult with the International and Border Programs to resolve issues relating to potential refund or credit toward an alternate program. If the amount of the refund is disputed, the participant may request review by the executive vice president and provost.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 16 | Safety and Risk Management

**Rule Administrator:** AP International and Border Programs

**Last Updated:** 09/12/2017

# Related

**Cross-Reference:**

ARP 14.69 - University Related Travel Guidelines;

ARP 16.70 - Education Abroad;

Business Procedures Manual Section 5C

**Revision History:**

2017 Recompilation;

09/12/2017 Amendment (rewriting former Rules 2.69.1 and 2.69.2 as Rule 16.69) approved by Chancellor.

10/21/2015 Replication of former Policies 2.69.1 and 2.69.2 as initial Rules 2.69.1 and 2.69.2 approved by Board of Regents;

05/02/2013 Amendment to former Policy 2.69.2 approved by Board of Regents;

03/14/2011 Amendment to former Policy 2.69.2 approved by Board of Regents;

07/20/2010 Adoption of former Policy 2.69.2 approved by Board of Regents.

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 16.70 – Education Abroad

arp.nmsu.edu/16-70

## PART 1: PURPOSE

This rule provides responsibilities, eligibility and other requirements and restrictions relating to Education Abroad programs offered or facilitated by NMSU, through the Office of Education Abroad, a division within International and Border Programs. The role of the Office of Education Abroad is to facilitate international learning opportunities and to aid with the application and enrollment process.

Education Abroad as used in this rule refers to educational programs and activities intended for academic credit. This includes any type of study, internship, service or research for which academic credit is offered. Education Abroad programs may be organized either by NMSU or may be offered through partner universities or third-party international program providers affiliated with NMSU.

Student participation in professional travel (e.g. conferences, presentations, professional meetings) not for academic credit requires the student to comply with **ARP 16.69 – University Related International Travel**.

## PART 2: AUTHORITY OF INTERNATIONAL AND BORDER PROGRAMS

The Office of International and Border Programs, through the Office of Education Abroad, is the sole office at NMSU authorized to make referrals to an international educational program, or to coordinate prospective international travel for Education Abroad program participants. Accordingly:

A. Any NMSU employee or student desiring to assist someone in selecting an Education Abroad program or other international travel experience should refer the interested party to the Office of Education Abroad.
B. Any individual seeking to participate in an Education Abroad program must obtain approval through the Office of Education Abroad.

C. Any faculty or staff member who is planning any Education Abroad program for NMSU students or on behalf of NMSU must obtain advance approval from the Office of Education Abroad, as well as the department and college.
D. Individuals not affiliated with NMSU are not permitted to participate in university sponsored Education Abroad programs unless the program has been approved by the executive vice president and provost for non-student participation. Such approval will be facilitated by the Office of Education Abroad.
E. The Office of Education Abroad will include, as part of its application and enrollment process, fulfillment of the requirements of **ARP 16.69 – University Related International Travel**.

# PART 3: ELIGIBILITY REQUIREMENTS

All individuals seeking to participate in an Education Abroad program must obtain requisite approvals by registering and completing an online application and related forms managed by the Office of Education Abroad (http://oea.nmsu.edu/). With the applicant's consent, the Office of Education Abroad may coordinate with various parties on and off campus to determine eligibility for participation in a program. Applicants must provide evidence of eligibility to participate in Education Abroad programs by meeting the following criteria:

## A. Background Clearance

Participants will be required to authorize the Office of Education Abroad to obtain a background clearance. The nature of the background clearance requirement varies depending upon the applicant's status with NMSU:

1. Students: As verified through the Office of the Dean of Students, student applicants must be in good standing, and must not have been sanctioned for a violation of the Student Social Code of Conduct at a level more serious than a deferred suspension. A student who is declined under this rule may petition the Office of Education Abroad for an exception. Requests will be considered on a case by case basis in consultation with the Office of Dean of Students, on the facts provided by the applicant in support of the requested exception.
2. Employees: NMSU employees must authorize an internal review for the purpose of confirming no relevant disciplinary action, including those based on adverse findings by the Office of Institutional Equity. Program leaders and any NMSU employee participating in a job related capacity must also have approval from the relevant department head or dean.
3. Non-Affiliated Applicants: For programs where approval has been granted for non-affiliated participation (See Part 2. D. above), the applicant must authorize and pay for a professional background check, similar to those conducted for prospective NMSU

employees. Applicants with convictions for sex related, violent or any other serious offense, will not be allowed to participate.

### B. Medical Clearance

Participants must present current medical documentation signed by a physician which indicates that the participant is physically and mentally fit for travel and participation in the specific type, nature and duration of the proposed international program, with or without accommodation. The Office of Education Abroad will provide the participant the program description and clearance form to give to the medical provider directly. If the medical clearance indicates the need for travel restrictions or recommends accommodations, the Office of Education Abroad will coordinate with the Office of Institutional Equity for employees and the Student Accessibility Services for students to determine whether a proposed accommodation can reasonably be provided.

### C. Insurance

Participants must be enrolled in an NMSU approved health and travel insurance plan. The Office of Education Abroad will enroll students in the insurance plan and bill the students directly. Participant insurance will not be accepted.

## PART 4: NMSU PARTICIPATION APPROVAL AND APPEALS

A. If the requirements for participation are not timely met, the applicant will be deemed ineligible to participate.
B. If the participant wishes to contest a determination of ineligibility, the participant may seek review by filing a Request for Review with International and Border Programs within ten business days from the date of transmittal of the determination to the applicant's NMSU email address. In consultation with the associate provost for International and Border Programs, the executive vice president and provost will review and issue a decision typically within two weeks from date of receipt of the Request for Review.

## PART 5: PROGRAM PROVIDER APPROVAL

A. In the case of Education Abroad programs offered through partner universities or third-party program providers, the NMSU Office of Education Abroad facilitates the application process for eligible students and transmits the student's information to the program provider. These external program providers independently decide whether

to accept each applicant after consideration of the application materials. Timely completion of third party program provider requirements, including deadlines, is the sole responsibility of the applicant.

# PART 6: PARTICIPATION BY MINORS

Minors under the age of 18 who are not legally emancipated (at time of travel) are not eligible to participate in Education Abroad programs. Upon petition to the Office of Education Abroad, requests for exception will be considered.

## A. Submission of Petition

The petition should address the following:

1. Consent from the program leader (the NMSU representative who will accompany the group), the host institution or the third party provider (all that apply) have been obtained;
2. Potential health and safety issues have been addressed, which may include a requirement for supervision by a responsible adult. Factors which should be explained include:
    a. the age of the minor,
    b. the nature of the Education Abroad program and activities that will be undertaken (age appropriateness),
    c. the destination country/ies and city/ies and the mode of traveling between destinations,
    d. S. State Department travel alerts or warnings,
    e. whether or not the minor is a child or legal ward of an adult participant in the Education Abroad program, and
    f. information received from the parent or legal guardian.
3. Availability and willingness of the parents or legal guardian to sign necessary contractual or other legal documents on behalf of the minor.

## B. Consideration by IBP and Provost

The associate provost for International and Border Programs will consider the petition and make a recommendation to the executive vice president and provost, who will approve or deny the request.

## C. Compliance with Program Requirements:

If an exception is granted, the minor will be subject to the same travel requirements as other Education Abroad participants.

# PART 7: CHANGES TO PROGRAM BASED ON EMERGENT CONDITIONS

After consideration of all relevant factors, and as conditions may warrant based on emergent conditions, the executive vice president and provost, in consultation with the associate provost for International and Border Programs, may require that an Education Abroad Program be suspended, diverted, or relocated, which may require that participants return to the U.S.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 16 | Safety and Risk Management

**Rule Administrator:** AP International and Border Programs

**Last Updated:** 09/12/2017

## Related

**Cross-Reference:**
ARP 14.69 - University Related Travel Guidelines;

ARP 16.69 - University Related International Travel

*Business Procedures Manual*, Section 5C

**Revision History:**

2017 Recompilation;

09/12/2017 Amendment (rewriting former Rules 2.69.1 and 2.69.2 as Rule 16.70) approved by Chancellor;

10/21/2015 Replication of former Policies 2.69.1 and 2.69.2 as initial Rules 2.69.1 and 2.69.2 approved by Board of Regents;

05/02/2013 Amendment to former Policy 2.69.2 approved by Board of Regents;

03/14/2011 Amendment to former Policy 2.69.2 approved by Board of Regents;

07/20/2010 Adoption of former Policy 2.69.2 approved by Board of Regents.

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 16.75 – Unmanned Aircraft Systems ("Drones")

arp.nmsu.edu/16-75

## PART 1: PURPOSE

The following regulations are established to provide mechanisms for the safe operation of UAS as part of academic, research, and public safety; to ensure the protection and safety of university students, employees, and guests; and to maintain privacy rights of those on university premises.

## PART 2: DEFINITIONS

For purposes of this Rule, the following Definitions will apply:

A. **Drone**: This is a lay term frequently used to describe an unmanned aircraft system.
B. **Federal Aviation Administration (FAA)**: The federal body with licensing and regulation authority over operation of aircraft in public airspace, to include the registration and licensing of aircraft and pilots.
C. **Pilot**: The person responsible for all aspects of the flight, to include the control of the unmanned aircraft system. The pilot must have appropriate licensure as may be required by federal aviation laws, regulations, and rules.
D. **Unmanned Aircraft System (UAS)**: This is the compilation of all people, parts, and equipment necessary to fly an unmanned aircraft system. This includes the pilot, spotters, remote control transmitters, collision avoidance sensors, and the actual aircraft. Both remotely operated fixed wing and rotary wing aircraft systems are included in this definition.

## PART 3: RULES AND PROCEDURES FOR USE OF UAS WITHIN THE NMSU SYSTEM

### A. Restrictions on Purchase of UAS with NMSU Funds

No UAS, nor component thereof, may be purchased with university funds until an analysis has been completed to determine whether existing university aircraft or equipment can meet the need. Any aircraft purchased with university funds shall, upon receipt, be submitted for inspection to the Physical Science Laboratory subject matter experts for a safety evaluation and registration. All registrations submitted for aircraft purchased with university funds shall list the owner as "Board of Regents, New Mexico State University". Regardless of the dollar amount of the purchase, the acquisition of an UAS with university funds must be reported to the Director of Purchasing in order to obtain risk management coverage prior to any operation of the UAS.

## B. Authority to Fly UAS

An unmanned aircraft system shall not be flown from, land on, or be flown within, property or facilities owned or controlled by the Board of Regents unless it fits within one of the following authorized categories, and is flown in accordance with the criteria established.

1. **Academic programs as a student/participant**: This category applies when the UAS is used in furtherance of teaching students enrolled in educational programs at the university. The Dean of the College or Community College Vice President for Academic Affairs, with concurrence of Community College President where the program is housed must approve the use of UAS for each course where the UAS are utilized; approvals may be renewed on a semester by semester basis in the same manner as for the initial approval. The Rule Administrator will maintain a list of pre-authorized locations, listing the requirements for use of each, to facilitate the approval of each request associated with an academic program. Students enrolled in these courses may be authorized by the appropriate faculty member or academic administrator to construct and/or to fly an unmanned aircraft as a "recreational" user in accordance with current rulings by the FAA, so long as they are not benefitting monetarily from such operation. Students in classes utilizing UAS shall receive appropriate instruction on safe operation prior to being allowed to pilot an unmanned aircraft. It is recommended that students learn how to adequately control an unmanned aircraft inside an appropriate building prior to being allowed to fly outside as part of the course, and that flying take place in designated locations. Authorization for students to utilize UAS only extend to the specific class or program activities authorized, and do not grant a right to fly outside of those parameters. Anyone requesting to use a location other than a location pre-authorized on a semester by semester basis for a course or program, must receive advance permission on a daily basis by completing an Activity Registration Form. See Section C. below.
2. **Teaching**: Faculty utilizing UAS as part of their teaching duties (either to demonstrate to students, or to teach the students how to build or fly) must be properly licensed through the Federal Aviation Administration and hold a certificate of authorization appropriate to the aircraft being operated if they operate the controls on an unmanned

aircraft that is being flown outside. If an unmanned aircraft is flown inside a building, the faculty member does not need to have a license from the FAA, but must have demonstrated skill and proficiency in the safe operation of the unmanned aircraft. See Section B. below.

3. **Research**: Researchers who operate UAS indoors must do so in a manner that ensures safety for anyone in the area and that does not create a hazard for life safety systems (e.g., fire sprinkler heads that might be hit and damaged). Researchers who operate UAS outdoors must either meet the requirements for operation as a recreational user (as defined by the FAA), or must have the appropriate pilot license and certificate of authorization. Prior to utilizing UAS in research activities, written authorization must be received from the Vice President for Research. Such authorization must be specific to the research project, and does not extend to other projects or uses.
4. **Public Safety**: UAS may be utilized by properly trained and credentialed members of the university police and fire departments when used to ensure public safety, manage an emergency, or investigate an incident. During any such operations, safeguards shall be in place to ensure the safety of those in the area, as well as to minimize violations of privacy. Public safety personnel operating UAS on behalf of the university shall be required to complete an appropriate training program that has been vetted and approved by the Physical Science Laboratory subject matter experts.
5. **Infrastructure Inspection**: UAS may be utilized for the inspection of university facilities and infrastructure upon the written authorization of the Associate Vice President for Facilities and Services, and in coordination of the Physical Science Laboratory. The safety and licensing requirements applicable to each circumstance must be met.
6. **Commercial**: Commercial operation of UAS (where there is any form of financial remuneration or compensation as a result of the operation) may only take place when written permission has been granted by the Rule Administrator, as well as the Director of Campus Activities, the Physical Science Laboratory, and the manager(s) of any facility where the flight operation will take place. All FAA requirements must be met prior to commercial flight being authorized.
7. **Recreation**: Recreational use of UAS, other than as noted above for students/participants of a sanctioned university class or program, are not generally allowed on or over lands owned and controlled by the Board of Regents. A request for permission to fly recreationally for a single date may be made by submitting a request to the Director of Campus Activities, who will coordinate with the appropriate university officials to review the request. Individuals flying under such permission are restricted to the scope and terms of the authorization, and may be required to demonstrate proficiency, insurance coverage, air worthiness, and a safety plan prior to being allowed to conduct a flight.

### C. Procedure to Request Authorization

A request to fly an UAS for one of the above reasons must be made in writing to the Director of Campus Activities, utilizing the Activity Registration Form. This is in addition to any other requirements noted for the specific categories. Requests should be made at least 10 business days prior to the planned activity.

### D. Coordination with PSL Required to Apply to FAA

Certificate of Authorization: When a certificate of authorization from the FAA may be necessary for a university student, faculty, or staff member, it shall be coordinated with the Physical Science Laboratory. No application may be submitted to the FAA on behalf of the university nor any of its subunits unless such coordination has taken place and approval for the application has been received.

### E. Exceptions to Application of this Rule

Requests for any exception from this Rule's requirements may be submitted in writing to the Director of Campus Activities, who will grant or deny the request in a letter decision to the requesting party, after consultation with the appropriate administrators from the Physical Science Laboratory, subject matter experts as necessary, facility managers, and Rule Administrator. Requests will be evaluated on a case-by-case basis. Exception requests which are granted will be for a specific period of time, and will be documented. The Determination issued by the Director of Campus Activities may be appealed in writing to the Executive Vice President and Provost, who will issue a final Decision after review of the written materials submitted by the requesting party and by the Director of Campus Activities.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 16 | Safety and Risk Management Uncategorized

**Rule Administrator:** AVP Facilities and Services

**Last Updated:** 10/20/2017

## Related

**Cross-Reference:**
**Revision History:**

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 16.77 – Children in the Workplace

arp.nmsu.edu/16-77

Students, staff, faculty, and administrators can expect to attend and teach class, or complete work or research in laboratories, libraries, offices, and other workplaces with a minimum of distractions or interruptions. Consequently, the following regulations have been established, and will be enforced by the appropriate dean or administrative supervisor, to ensure that an appropriate academic and work environment is maintained.

A. Children visiting campus must be closely supervised by an adult at all times.
B. Children will be prohibited from entering dangerous settings such as labs and equipment rooms without the approval of the appropriate dean or administrative supervisor.
C. Children may not attend a class in session without the prior approval of the class instructor. Children under the care of the instructor may not attend class without the prior approval of the immediate supervisor.
D. Children may, on rare occasions and with the approval of the supervisor, accompany a parent to the workplace. However, the expectation is that parents will make alternate arrangements for the care of their children during normal working hours.
E. Children taking part in programs and/or special events on campus are expected to abide by the rules and regulations established by the program or event sponsors.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 16 | Safety and Risk Management

**Rule Administrator:** AVP Human Resource Services

**Last Updated:** 09/16/2017

## Related

**Cross-Reference:**
**Revision History:**

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 16.78 – Mandatory Reporting for Suspected Child Abuse, Sexual Misconduct, Domestic Violence, Dating Violence or Stalking

arp.nmsu.edu/16-78

## PART 1: SUSPECTED CHILD ABUSE

All NMSU employees and volunteers must comply with state and federal laws requiring any individual who reasonably suspects child abuse to immediately notify the NMSU Police Department, or, if the incident giving rise to the report occurs outside of the NMSU Las Cruces or DACC campuses, to a local law enforcement agency with jurisdiction. Child abuse is defined as causing harm to a minor as a result of physical, emotional, sexual, or psychological abuse or neglect.

## PART 2: SEXUAL MISCONDUCT, DOMESTIC VIOLENCE, DATING VIOLENCE AND STALKING

All NMSU employees and volunteers must notify the NMSU Office of Institutional Equity/Title IX Coordinator of any allegation or suspicion of sexual misconduct, domestic violence, dating violence or stalking occurring on NMSU property, or affecting or involving NMSU employees, students or visitors. Sexual misconduct includes sexual harassment, gender-based harassment or bullying, sexual assault, sexual violence, sexual exploitation and sexual intimidation. Sexual misconduct, domestic violence, dating violence and stalking can occur between people of the same sex and people of different sexes.

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 16 | Safety and Risk Management

**Rule Administrator:** NMSU Police Chief

**Last Updated:** 01/09/2019

## Related

**Cross-Reference:**
***See also:***
NMSA 1978 §32 A-4-3;

NMSA 1978 §30-6-4;

ARP 3.25, Part 3. C. and Part 11;

Violence Against Women Act, as Reauthorized (2013) (42 U.S.C. §§13701 – 14040)

Title IX, Education Amendments of 1972 (20 U.S.C. §§1681-1688)

**Revision History:**

01/09/2019 Rule adopted by Chancellor

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 16.79 – NMSU Sponsored Youth Programs

arp.nmsu.edu/16-79

## PART 1: PURPOSE

NMSU is committed to providing a safe and educational experience for all children participating in its' Youth Programs. This rule applies to all Youth Programs sponsored by NMSU. In addition to establishing approval requirements and operational rules for conducting NMSU sponsored Youth Program(s), this rule establishes requirements for training and criminal background checks for all personnel working with Minors. NMSU employees and units may not conduct Youth Programs except in compliance with this rule.

## PART 2: PERSONNEL AND ROLES

For purposes of this rule, the following definitions apply:

A. **Minor**: Any person who is under the age of 18 years, and not legally emancipated.
B. **NMSU Sponsor**: Any college, a department or other individual administrative unit governed by the NMSU system that sponsors Youth Programs as defined below.
C. **Person in Charge (PIC)**: The individual designated to be physically present and responsible for the direction and supervision of the Youth Program at any given time. The Youth Program will have only one designated PIC at each location at any given time, but there may be multiple individuals who share the PIC responsibility during the course of a Youth Program (e.g., a PIC of the daytime activities, and another in charge of the nighttime activities).
D. **Program Participant**: Any person registered for or engaged in a Youth Program.
E. **Youth Progra**m: An NMSU sponsored non-credit bearing activity, program or other event (e.g. meeting, work shop, sport camp, academic camp or conference) intended for and attended primarily by Minors, and not

requiring attendance and direct supervision by a parent or legal guardian.

F. **Program Director (Director**): An employee of the unit that is sponsoring the Youth Program, who is the primary contact for the program and has overall responsibility for the Youth Program operation and compliance with this rule. Each sponsoring unit will designate a single employee to serve as the Youth Program Director. The Youth Program Director must be available for consultation by the PIC's at all times during the Youth Program operation.

G. **Program Supervisor (Supervisor)**: Any individual adult who engages in organizing or conducting activities for or the supervision of Program Participants. Program Participants will be under the direct supervision of a Supervisor at all times during the Youth Program except as otherwise allowed by this rule. All Supervisors will report and perform duties under the direction of the PIC.

H. **Program Staff**: Every individual, regardless of whether employed or volunteer, who is responsible for any aspect of the Youth Program operation which involves communication with Program Participants including the Director, all individuals serving as PIC, and all Supervisors. Guest presenters or activity leaders who provide a particular skill or talent to the Youth Program and have no supervisory role with Program Participants are not Program Staff.

## PART 3: YOUTH PROGRAM APPROVAL AND REQUIREMENTS

A. **Required Youth Program Approval**: All proposed Youth Programs must be approved by the Dean or Vice President with authority over the NMSU Sponsor. The relevant Dean or Vice President is responsible for assessing the risks associated with the Program and for providing the oversight necessary to achieve compliance with this rule. NMSU's Environmental Health Safety & Risk Management office (EHS&RM), the University General Counsel (UGC), Human Resource Services office (HRS) and the NMSU Police Department (NMSU PD) will assist with risk assessment upon request. Youth Programs limited to select groups (e.g. limited to single gender or other protected class) will not be approved without clearance from the Office of Institutional Equity (such programs generally violate laws prohibiting discrimination based on membership in a protected class).

B. **Human Subjects Research:** Any Youth Program in which research data will be collected, or which will result in research presented or published, must obtain advance approval from the Institutional Review Board (IRB). See

**NMSU Principles and Procedures for the Conduct of Research Involving Human Subjects**. Such research programs may request a waiver from the NMSU recruitment requirements set forth in Section E. below.

C. **Program Approval Process**: The Youth Program proposal must be submitted for approval using the Youth Program Registration form available at the UGC website **https://legal.nmsu.edu**. Any NMSU entity seeking to sponsor a youth program should obtain approval and initiate the registration process at least 3 months prior to the proposed program dates to allow adequate time for completion of training, background check clearances and any other registration requirements.

D. **Program Registration**: The NMSU Sponsor must initiate registration of the Youth Program with VP Student Success and Enrollment Management by submitting the Youth Program Registration form, as approved by the appropriate Dean or Vice President. SAEM will validate the registration on the Youth Program Proposal Form and will return a validated copy to the NMSU Sponsor, with another copy sent to NMSU PD. The Program Registration will be placed on "pending" status until the registration is completed. At least 5 business days prior to the start of the Program, the NMSU Sponsor must complete the registration process by submitting the Youth Program Confirmation and Attestation form (available at the UGC website **https://legal.nmsu.edu**) which has been approved by the appropriate Dean or Vice President. The NMSU Sponsor will not allow any Youth Program to commence prior to completion of these registration requirements. Youth Programs which operate continuously with no set end date must meet the requirements and submit a new Program Confirmation and Attestation form at least annually.

E. **NMSU Recruitment**: All Directors will provide SAEM with the opportunity to distribute recruitment materials to Youth Program participants during the operation of the Youth Program. Upon request, all Directors will provide SAEM with a list of Program Participants and their addresses, to be used solely for NMSU recruitment.

F. **Facility Scheduling**: The NMSU Sponsor must schedule the use of any NMSU controlled facility or outdoor spaces to be used for the Youth Program with the appropriate Facility-Space Scheduling Authority (FSA). The identity and contact information for the FSA for each university owned facility is available from the Office of Space Planning website at https://space.nmsu.edu. Each FSA may require the NMSU Sponsor to sign a facility use agreement; in all cases the NMSU Sponsor is required to comply with the facility use rules imposed by the FSA. Arrangements for on-campus overnight housing and cafeteria dining services must be contracted through the Conference Services office. Sponsoring units are responsible

for making the financial arrangements for such services and for any facility usage fee charge by the FSA. The use of off-campus facilities for NMSU sponsored Youth Programs does not exempt the NMSU Sponsor from the other requirements of this rule.

G. **Accident Insurance:** Low cost accident insurance is available for purchase by NMSU Sponsors. Program Directors should contact EHS&RM to register for this insurance. Subject to the terms and limitations of the policy, this insurance will cover medical costs associated with accidental injuries suffered by Program Participants.

H. **Fiscal Management**: All revenue generated and expenses incurred by Youth Programs must be accounted for in compliance with the NMSU Business Procedures Manual, and must follow all other NMSU regulations for proper fiscal management, such as cash handling regulations from the Business Procedures Manual. **https://af.nmsu.edu/bpm/** For assistance in establishing appropriate fiscal management contact Aggie Service Center via email to **ASC@nmsu.edu**. Any supplementary compensation paid to NMSU employees (above their regular compensation) must be approved in advance by Human Resource Services.

## PART 4: PROGRAM PARTICIPANT REGISTRATION AND ACCOMMODATION

A. **Program Participant Registration**: Every NMSU Sponsor will utilize a participant registration process with approved informed consent forms signed by a parent or legal guardian (permission to participate and acknowledgement of risks), emergency contact information, emergency medical information and any other information determined to be necessary by University General Counsel (UGC). Approved forms and templates will be available at the UGC website **http://legal.nmsu.edu** or at the VP SAEM website **https://studentaffairs.nmsu.edu/**. Additional forms seeking supplementary information may also be used by the NMSU Sponsor as determined necessary for the specific Youth Program.

B. **Nondiscrimination and Disability Accommodations**: The NMSU Sponsor will include and comply with the NMSU-approved non-discrimination statement in the program promotional and registration materials for every Youth Program. The NMSU Sponsor must consult with OIE regarding every request for accommodation based on disability or medical needs or religious belief or practice.

## PART 5: PROGRAM SAFETY MEASURES

A. **Emergency Information**: For the duration of the Youth Program, the PIC must have a readily accessible list of all participants which contains emergency contact information and any emergency medical information in a format which can be provided immediately to emergency personnel.
B. **Emergency Response**: The PIC will immediately call 911 for emergency services in the event a Program Participant receives a serious injury or for any situation posing an imminent serious risk to individual health or safety. As soon as feasible, the PIC will notify the Director. The Director is responsible for immediately notifying the parents or legal guardian of any minor Program Participant receiving emergency care, but may request assistance from NMSUPD in fulfilling this responsibility. Additionally, once the emergency is resolved, the PIC and any other involved parties must file incident reports with EHS&RM using their approved incident report form.
C. **Mandatory Training**: The Director must ensure that all Youth Program Staff (including any individual who will work with minors during the Program) complete the required training, as provided in this rule, prior to commencement of the Youth Program.
D. **Designation Of Responsible Parties**: The Youth Program Director must ensure that the roles and responsibilities for Program Supervisors, the PIC, and other individuals involved in organizing and operating the Youth Program are clearly communicated, especially those duties associated with the direct supervision of Program Participants.
E. **Minor Supervision**: The PIC or their designees must supervise participating minors 12 years of age or younger at all times. Minors who are 13 years of age or older who are enrolled in overnight camps may have designated free (unsupervised) periods, provided that the free time and associated risks were noted in the informed consent documents signed by the parent or legal guardian and that clear and specific instructions are given to the Program Participants regarding permitted activities and locations during the unsupervised periods.
F. **One-On-One Contact Restrictions**: One-on-one contact consists of in person contact or any form of communication between any minor and an adult (who may be Program Staff or an adult Program Participant or another Program Participant's parent or legal guardian), without at least one other authorized adult being present. An authorized adult is a Director, PIC, YP supervisor, or other individual who has a background clearance and received the training mandated by this rule, or a parent or legal guardian (or designee). The following restrictions on one-on-one contact apply to Youth Programs:
    1. Directors will plan their Programs to eliminate or minimize one-on-one contact.

2. Program Staff will avoid one-on-one contact with minor Program Participants when possible to do so.
3. Program Staff will not initiate or continue one-on-one contact with any minor Program Participant at times when the Program is not in session or after the Program has terminated. This prohibition on one-on-one contact outside of the Youth Program does not apply where the minor Program Participant is a close family member of the adult or the adult has a previously existing personal relationship with the family of the Program Participant, and the parent or legal guardian is aware of the one-on-one contact.

G. **Restrictions for Overnight Programs**: An overnight program is defined as any Youth Program which includes one or more periods of more than 16 hours in which the Program Participants are not returned to the physical custody of their parent or legal guardian (or designee). The following restrictions apply with respect to overnight programs.
   1. NMSU will not sponsor overnight Youth Programs for minors under age 11. Youth Programs may seek a waiver of this age restriction, as provided in this rule.
   2. The use of off-campus lodging for Youth Programs must be indicated on the Registration form and requires approval of the relevant Dean or Campus President. Parents must be informed and consent to the lodging arrangements for overnight events or programs.
   3. Program staff who serve as overnight chaperones must be at least 25 years of age. All overnight programs require at least one chaperone who remains on premises at the overnight facility with the minor Program Participants. Overnight programs with more than 8 minor Program Participants will have at least two chaperones who remain on premises at the overnight facility at all times, except in the event of an emergency. One of the overnight chaperones at each overnight facility must be the PIC and the others may be either Program Staff or NMSUPD-approved security officer(s). Where a Youth Program utilizes more than a single housing structure, these requirements must be satisfied for each structure.

H. **Transportation**: Program Participants may not be transported in non-NMSU owned or leased vehicles unless the Program Director, or designee, has verified that each driver is in possession of a valid driver's license and proof of insurance, and has obtained a copy of both (digital photographs are acceptable copies). The Program Director will not allow Program Staff to operate any vehicle owned or leased by NMSU unless the individual holds a valid NMSU permit issued by EHS&RM, as authorized by Rule 16.30. This requirement does not apply to the operation of golf carts on golf

course premises.

I. **Mandatory Reporting**: The Director is responsible for compliance with NMSU Rule 16.78 and all mandatory reporting laws. If any person, including a Program Participant or the Participant's parent or guardian, makes an allegation about conduct occurring during the Youth Program that might constitute child abuse under Rule 16.78, the Program Staff will immediately notify NMSUPD or an appropriate law enforcement authority with jurisdiction. Any allegation of discriminatory conduct must be reported to the NMSU Office of Institutional Equity. In addition to the reporting as set forth above, and with respect to any allegation or information regarding any type of misconduct, injury or complaint, the Director must notify the cognizant vice president or dean who will determine what further reporting or action is appropriate or necessary. Any individual with responsibility for Youth Program operations who has questions about the applicability of this rule may consult with NMSUPD or UGC.

J. **Facility Safety**: The PIC will regularly inspect the premises used for the Youth Program and monitor the Program activities to maintain a safe and hazard-free environment, as well as to mitigate any unsafe situation encountered. The PIC will immediately report any safety concerns to the Youth Program Director and if appropriate, NMSU emergency dispatch (911). The Director is responsible for having the issue corrected, and for identifying alternate sites for the Youth Program until the safety issue is corrected.

## PART 6: TRAINING FOR YOUTH PROGRAM STAFF

A. **Mandatory Training**: Prior to the start of the Youth Program, all Youth Program Staff must demonstrate appropriate knowledge through satisfactory completion of the mandatory training course described below.

B. **Course Delivery**: The NMSU PD is responsible for developing and making available a training course for NMSU Youth Program Staff and other NMSU constituents. The NMSU PD may establish requirements for satisfactory completion of the Youth Program course including a testing protocol and minimum passing score. The training course may be offered in a live or web-based format and may be taught or led by individuals approved by the NMSU Police Chief.

C. **Course Content**: The NMSU Police Department will consult with appropriate subject matter experts within the NMSU administration regarding training course content. The educational training course will

include the following topics:

1. Prohibition on discriminatory conduct and disability and medical accommodation requirements.
2. Responding to misbehavior such as bullying or harassment.
3. Appropriate action and reporting requirements for suspected child abuse and sexual misconduct.
4. General safety, first aid and emergency response procedures (including serious injury response).
5. Safety requirements relating to transportation of program participants.
6. Avoiding one-on-one contact with minors.
7. Other risk avoidance and safety information related to the specific activity type and location (e.g. water safety, heatstroke danger, concussion monitoring)

D. **Training Records and Certification**: The training course instructor will document satisfactory completion of the training course by (1) issuing a written and signed certification of completion to individual participants and (2) delivery of a copy of the course materials and the record of attendance and successful completion to CLPD within 5 business days after the course is completed. The Director will obtain a copy of the written certification from individual Program Staff or will obtain written verification of completion from the course instructor or from CLPD, and will then verify (through the Youth Program Confirmation and Attestation form submitted to SAEM to complete the registration) that all Program Staff have successfully completed the mandatory training course. Directors must verify compliance with this rule prior to commencing operation of a Youth Program, and must maintain the records documenting compliance for a period of three years from the end date of the Youth Program.

E. **Certification Duration**: Youth Program training certifications will be valid for a 12 month period from the date of the training course.

## PART 7: CRIMINAL BACKGROUND CHECKS

A. **Mandatory Clearance**: A criminal background check must be performed, and each individual Program Staff cleared, prior to any direct involvement with the Program Participants. Any individual who refuses to consent to a background check or who does not obtain clearance from NMSU Human Resource Services (HRS) is not permitted to communicate with or have any direct involvement with Program Participants. Program sponsors must pay for the cost of the background checks.

B. **Scope of Review**: The criminal background check review will encompass only felony and misdemeanor criminal convictions and pending criminal charges. Clearance may be denied, in the sole discretion of NMSU, for any individual who is determined to have a disqualifying criminal conduct history. HRS will make the final determination as to whether information obtained during a criminal background check precludes an individual from serving as Program Staff, or warrants restrictions on the individual's participation.

C. **Background Check Process**: HRS is responsible for managing the criminal background check clearance process. The process includes the following steps:
    1. The Directors will provide an approved criminal background check consent form (which will include legally required notifications), to each prospective Program Staff, and will collect and submit the completed and signed forms to HRS to initiate the background check, together with an index number to which costs will be assessed. Consent and notification forms are available from the HRS Website.
    2. HRS will order the criminal background reports and will issue clearances to the Director when deemed appropriate. HRS will seek to issue most clearance determinations within 10 business days after receipt of the consent forms, however, a longer period may be required for reports which contain adverse information.
    3. In the case where a criminal background report contains information upon which a clearance might be denied, before making that determination, HRS will notify the individual in writing and provide a copy of the report and all legally required notifications (pursuant to the Fair Credit Reporting Act). The individual will be afforded the opportunity to explain any negative information during the 5 business days after notification. Thereafter, HRS will make a final clearance decision.
    4. HRS will notify both the Director and the individual of the final clearance decision, and in cases where no clearance is issued or the clearance is restricted, HRS will provide the individual with legally required notifications (pursuant to the Fair Credit Reporting Act).

D. **Post-Clearance Criminal Charges**: Any individual serving as Program Staff who is arrested for or charged with a crime after receiving a criminal background check clearance must notify the HRS immediately and cease to participate in any Youth Program unless and until further clearance is given.

E. **Clearance Duration**: A criminal background check clearance will remain valid for 5 years from the date it completed, unless subsequent events

trigger additional review as determined in the discretion of HRS.

## PART 8: RULE EXCLUSIONS

Minors may be present on the NMSU property under a variety of circumstances that do not involve participation in NMSU sponsored Youth Programs as defined by this rule. The following events, activities and circumstances are excluded from this rule:

A. **Enrollment in Academic Courses**: Enrollment and participation in credit bearing academic courses, including regular and dual credit enrollment at NMSU. (Note: minors may be barred from enrollment in certain courses where NMSU has determined that the course content and activities are inappropriate or illegal for minors).
B. **NMSU Recruitment Programs**: Programs which are part of NMSU's official recruitment and orientation events for high school students (e.g. Aggie Experience; Aggie Orientation).
C. **Enrolled Student Events**: Participation in NMSU programs open only to fully admitted and enrolled students.
D. **Accompanied by Responsible Adult**: Events, programs and activities where minors are accompanied by a parent, legal guardian or other responsible adult as designated by the parent or legal guardian and the minor remains under the supervision and control of the responsible adult at all times. Programs offered for groups of students from public or private schools, where the participants are accompanied and supervised by teachers or staff from their school, are covered by this exclusion.
E. **Events and Facilities Open to Public**: NMSU assumes no responsibility for monitoring the age or for supervising or otherwise providing for the safety of minors who attend NMSU events or use NMSU facilities that are advertised as open to the public, not specifically offered for minors, and which do not require individual registration (e.g. athletic events). Parents and legal guardians of minors who allow the minors to attend such events or to otherwise come on to NMSU controlled property without adult supervision assume all risks and full responsibility for their safety and wellbeing. The university reserves the right to exclude from its property any unattended minors under the age of 14, and may exclude any individual at any age under **ARP 16.21**.
F. **Private Programs**: Programs conducted by private entities which are not subject to the governance of NMSU are not subject to this rule. Private Programs are subject to these restrictions:
    1. Any private entity conducting a programs for minors using NMSU

facilities under a rental or site use agreement must not make any representation that would suggest that the program is operated or sponsored by NMSU and may not use any NMSU logo or trademark in publicizing the program.

2. Neither NMSU employees, nor any entity controlled by an NMSU employee, may operate a private program on NMSU controlled property.
3. NMSU employees who operate, control or work with privately sponsored programs for minors must take care to ensure that NMSU facilities, name, trademarks or other resources are not utilized in connection with the private camp and that no association with NMSU is in any manner suggested. If publicity about such programs will include a statement of the employee's relationship to NMSU, the communication should also include an explicit statement that the Youth Program is not sponsored by or associated with NMSU.

## PART 9: PROCESS TO REQUEST WAIVER OF RULE (EXCEPTIONS)

Each NMSU campus president is authorized to grant an exception to all or part of the requirements of this rule, based on reasonable justification and after due consideration of risk factors. Any exception must be documented by written and signed memorandum.

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 16 | Safety and Risk Management

**Rule Administrator:** VP Student Success and Enrollment Management

**Last Updated:** 01/09/2019

## Related

**Cross-Reference:**
ARP 16.78 – Mandatory Reporting of Suspected Child Abuse and Sexual Misconduct

**Revision History:**
01/09/19 Rule adopted by Chancellor, effective March 1, 2019

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 16.85 – Parking and Traffic Regulations

arp.nmsu.edu/16-85

## PART 1: STATUTORY GRANT OF AUTHORITY

These regulations are established to allow for the consistent and fair treatment of all people (Students, Faculty, Staff, vendors, and Visitors) who use the campus, optimal use of available parking, and assist with the safe movement of traffic. Pursuant to the authority granted to the New Mexico State University Board of Regents (NMSU) by NMSA 1978, § 29-5-1.1 to promulgate regulations governing the operation and parking of Vehicles in any area within the exterior boundaries of lands under its control which is not a municipal street or highway.

## PART 2: DELEGATION OF BOARD'S AUTHORITY

The Office of Transportation and Parking Services and the NMSU Police Department are assigned the responsibility and legal authority for the implementation, application and enforcement of these regulations.

## PART 3: JURISDICTION/SCOPE OF APPLICATION

These regulations apply at the NMSU-Las Cruces Campus and Doña Ana Community College central campus located on Espina Street. The other NMSU components may request the implementation and enforcement of parking and traffic regulations at their respective locations, including a request for distinct permit fees. Fees distinct from those set forth in these rules and regulations are subject to approval by the Board of Regents.

## PART 4: GENERAL GUIDELINES

A copy of the current Traffic and Parking Regulations shall be made available at the Office of Transportation and Parking Services to anyone requesting a copy. Parking Regulations are also available online at **www.nmsuparking.com.**

## A. Definitions

For purposes of this Rule, the following definitions shall apply:

1. **Bus**: Bus shall refer to every motor vehicle designed for the transportation of more than 16 persons or other oversize vehicle designed for the transportation of persons for compensation.
2. **Commercial Vendor**: Any person, excluding Faculty, Staff and Students, representing a private business or service that requires parking privileges at NMSU in order to conduct that business.
3. **Commuter Studen**t: A Student residing off of the NMSU-Las Cruces Campus during the academic year and who drives to campus.
4. **Faculty**: Any employee classified as Faculty or affiliate by the Office of Human Resource Services, who works at, or is affiliated with, either the Las Cruces campus or the Doña Ana Community College central campus on Espina.
5. **Family Housing**: The areas including Cole Village, Sutherland Village, Tom Fort Village and Cervantes Village B, C, D, E, and G.
6. **Graduate Assistant**: Graduate Assistants are considered to be Students for purposes of this Rule.
7. **Low Emission or Fuel Efficient Vehicle**: A vehicle listed in the most current published “My LEED List of Fuel Efficient Vehicles” as compiled by the American Council for an Energy-Efficient Economy.
8. **NMSU-Las Cruces Campus**: The lands belonging to, or controlled by NMSU that are roughly described as the approximately five square miles of land in the vicinity of the junction of Interstate 10 and Interstate 25, and that are routinely patrolled by the NMSU Police Department. This area is depicted on the campus parking map.
9. **Official Government License Plate**: Any Vehicle displaying an Official Government License Plate. Official Government License Plates include those readily identifiable as U.S. government, diplomat, any U.S. state, city or county government agency and state legislative license plates.
10. **Parking Stall or Space**: A Parking Stall or Space is that which accommodates a single Vehicle and is clearly defined by painted lines on adjacent sides of the Vehicle.
11. **Resident**: Any person who resides on the NMSU Las Cruces campus during the academic year.
12. **Restricted**: (red) Fire/Emergency zones, (yellow) “no parking” zones, (blue) disabled zones, (green) service zones, parking spaces marked with signage as specially reserved, or any other restricted area indicated by

signage.

13. **Staff**: Any employee classified as staff or affiliate by the Office of Human Resources Services, who works at, or is affiliated with, the Las Cruces campus or the Doña Ana Community College central campus on Espina.
14. **Student**: Any person on either the Las Cruces campus or Doña Ana Community College central campus on Espina who attends classes at any time during the year.
15. **Tow-Away Zone**: Any area designated by signage which provides notice that vehicles may be towed, as well as any roadway or driving lane on campus when the violating vehicle is parked in the traveled portion of the roadway or driving lane and is obstructing the safe flow of traffic.
16. **Vehicle**: Vehicle refers to any vehicle or device that is propelled by an internal combustion engine, electric or other power that is used or may be used on the roadway for purpose of transporting persons or property, including connected trailers. A vehicle must fit within a single Parking Stall.
17. **Visitor**: Any person not in the other categories defined under definitions.
18. **Windshield**: The window that is located in front of the driver when facing forward.

## B. Designated Parking Areas

The Board of Regents has authorized the designation of parking areas for the NMSU-Las Cruces Campus. Parking areas are designated according to the following classifications, which may be modified by the Transportation and Parking Services to meet the needs of the university:

1. “All Permits” parking areas
2. Commuter Student
3. Designated Parking Spaces for Individuals with Disabilities
4. Emergency/Fire Zones
5. Faculty/Staff
6. Free Parking areas
7. Low Emission and Fuel Efficient Vehicle Parking
8. Metered
9. Motorcycle
10. North Campus Resident
11. Reserved Parking Spaces
12. Restricted/Service/Delivery Zones
13. South Campus Resident

## C. Signage

Areas subject to campus traffic and parking regulations shall be marked with appropriate signage, and drivers shall adhere to all signage, including

temporary signage. Street or curbside parking spaces not marked with signs, curb color or other parking designation restriction, shall be designated and defined as “All Permits” parking area.

1. Where there are multiple Restricted spaces together, these may be depicted by signs at the beginning and end of the Restricted area.
2. Signage may be either temporary or permanent, including but not limited to signage displaying parking instructions and/or meter bags or covers.

## D. Conflict between Regulations, Designation on Map and Signage

In the event of a conflict between these regulations, map designations or on-site signage that specifies parking instructions, the on-site signage shall control.

## E. Penalties and Fees

Consistent with state law, these regulations set specific penalties for each type of violation, as well as impose an additional fee per citation for costs associated with the administration of NMSU’s traffic program.

## F. Abuse of Permit or Placard and Authority to Cancel

Vendor permits, departmental placards and visitor placards, shall only be used for official NMSU business, and shall not be misused to attend a class or for other personal use.  Transportation and Parking Services is authorized to cancel a permit or placard that has been misused, regardless of the entity or person that provided  the permit (*i.e*. use of a permit or placard to park to attend class instead of for authorized purpose).  Permits or placards will be cancelled after notice by Transportation and Parking Services, and an opportunity to rebut the charge of misuse.  No refund is available for permits or placards cancelled in accordance with this subsection.

## G. NMSU Authority to Place Barrier

Barriers, fences, signs, posts or other traffic or control devices may be placed by NMSU and/or its authorized agents at any location necessary for the safety of the public and/or work crews. Removal or moving any such safety or warning device is prohibited. Violators will be cited.

## H. NMSU Authority to Block or Restrict Parking Areas and Roadways

The university reserves the right to block or otherwise restrict parking areas and roadways for maintenance, special events, or other functions deemed appropriate. All such closures must be approved by Transportation and

Parking Services, Police Department and/or the assistant vice president for auxiliary services, as deemed appropriate.

### I. Individual Responsibility

The university does not provide security specific to parking areas, and assumes no responsibility for the care or protection of Vehicles, including their contents, parked on its property; individual owners are encouraged to follow safety guidelines relating to parked Vehicles.

### J. Amendment to Parking/Traffic Regulations

These regulations may be modified in accordance with the policy and rule adoption protocol outlined in Chapter 1.

## PART 5: NMSU PERMIT OR PLACARD ISSUANCE REQUIREMENTS

### A. Proof of Identification Required

In order to obtain an NMSU parking permit, the individual must provide proof of identification, and for permits other than visitor permits, proof of eligibility for the type of permit being sought. **Adequate forms of identification include but are not limited to**: NMSU identification card, Aggie identification number, a state-issued photo ID card, other official identification containing a photograph and/or verifiable identification.

### B. Purchase of Additional Permits

1. An individual may purchase one parking permit at the price indicated in the fee table at **NMSU Parking Fee Schedule**, and an additional permit at the price applicable under "additional permits" in the fee table at **NMSU Parking Fee Schedule**.
2. An individual may purchase one regular permit and one motorcycle permit at regular prices without having them count as "additional" permits under this section.
3. Residents of Family Housing may purchase up to two (2) permits at the regular price.

### C. Responsibility for Violations

The person on record for having purchased the permit will be the party held responsible by NMSU for any and all violations by any individual displaying that permit in any

## D. Types of Permits Available/Issuance Procedures

1. **Campus Resident Parking Permit**. To obtain this type of permit, the person must be an NMSU Student and reside on campus during the academic year.
2. **Faculty/Staff Permit**. To obtain this type of permit, the person must be NMSU Faculty or Staff.
3. **Commuter Student Permit:** To obtain this type of permit, the person must be a Commuter Student.
4. **Outer Lot Employee Permit**. To obtain this type of permit, the person must be NMSU Faculty or Staff.
5. **Commercial Vendor's Parking Permit:** Faculty, Staff, and Students are not eligible for Commercial Vendor Permits. A Commercial Vendor may purchase either a single or an umbrella permit. Umbrella permits are issued to Commercial Vendors with multiple Vehicles making deliveries, and will be valid for all company Vehicles clearly marked with the company logo, as long as there are no more than two (2) such Vehicles on campus at any given time. The umbrella delivery permit does not need to be displayed, but must be available at the vendor's office for inspection and auditing.
6. **Disabled Parking Placard:** Based on a valid state-issued placard or license plate, and in accordance with the procedures of Transportation and Parking Services, NMSU will honor such disabled parking placard in the event of a temporarily disabled Faculty, Staff or Student, the Transportation and Parking Services will issue a temporary NMSU Disabled parking permit. Temporary disabled parking permits require the individual to produce a doctor's note.
7. **Departmental Placard:** Transportation and Parking Services issues loading/unloading departmental placards to the departments needing such access. The placard is only valid when displayed in conjunction with another valid NMSU Parking Permit. The departmental placard is to be used for authorized NMSU business purposes only.
8. **Special Event/Visitor Parking Placard:** NMSU entities hosting an event requiring visitor parking for guests are required to obtain visitor permits or parking placards for each Vehicle, and to advise their guests regarding the campus parking regulations. Pre-purchased parking spaces are available from Transportation and Parking Services by submitting a "Request for Special Event Parking Permits" form five (5) days, before the date of the event.
9. **VIP Parking Permits:** These permits are authorized solely by the assistant vice president for auxiliary services.
10. **Special Parking Permits:** These permits are authorized solely by the Chancellor and generally are reserved for members of the Board of

Regents, the Chancellor, the provost, vice presidents, deans, general counsel, campus executive officers, chairs of faculty senate and employee council and certain directors who report directly to deans, vice presidents, or the provost. Upon the approval of the Chancellor, the ASNMSU president and vice president may purchase special permits at the same price as commuter student permits.

11. **Reserved Parking Spaces:** Departments may lease parking spaces each year from Transportation and Parking Services at the rate listed in the fee table at **NMSU Parking Fee Schedule** by completing and submitting a "Reserved Parking Space Application" to Transportation and Parking Services. These parking spaces will be identified with signage as being specially reserved. (*See also* Part 8)
12. **Temporary Parking Permit:** A temporary permit may be issued by Transportation and Parking Services for up to fourteen (14) business days to Students, Faculty, Staff, and persons with official business on campus.
13. **Visitor Parking Permit:** Visitors may obtain a free daily/weekly parking permit at Transportation and Parking Services or via the internet at **www.nmsuparking.com** (limit five daily permits per year), or purchase an annual "outer lot visitor" or "all access visitor" parking permit.

## E. Lost Permits

Lost permits shall be reported to Transportation and Parking Services. The individual who purchased the original permit may purchase a replacement permit upon completion of a lost affidavit form and cancellation of the original permit. Refer to **NMSU Parking Fee Schedule** for replacement permit fee. A refund may be provided if the original lost permit is returned to Transportation and Parking Services by the individual who purchased the permit.

## F. Stolen Permits

Stolen permits should be reported to Transportation and Parking Services. The individual who purchased the original permit may purchase a replacement permit upon completion of stolen affidavit form and police report. Refer to **NMSU Parking Fee Schedule** for replacement permit fee. The permit originally issued shall be cancelled.

## G. Mandatory Replacement of Permit

A replacement parking permit shall be obtained, which shall cause the cancellation of the original permit, from Transportation and Parking Services when:

1. The holder's status changes (example: Resident moves off campus)
2. The holder's classification changes (example: Student becomes Staff)

3. The permit expires
4. The owner/driver has a permanent permit and needs to change it to another Vehicle.

### H. Cancellation of Permit

A parking permit shall be returned to Transportation and Parking Services to be officially cancelled when:

1. Employment with NMSU is terminated (excludes retirees)
2. A Student is suspended or expelled from NMSU
3. A refund is obtained for the parking permit

### I. Cancelled Permits

All permits that have been cancelled for any reason shall be placed on the "tow or boot" list and any Vehicle found to be parked anywhere on campus using a permit that has been cancelled shall be cited and towed or booted.

## PART 6: PARKING FEES

### A. Annual Permit Fee Assessment

Every September 1, parking permit fees will be assessed. For purposes of this Rule, the year is from September 1 through August 31.

### B. Parking Fees

Permits purchased after December 1 will be priced at one half of the annual price, plus an administrative fee. Permits purchased after May 1 will be priced at one quarter of the annual price, plus an administrative fee. Permit prices are included at **NMSU Parking Fee Schedule**.

### C. Free Parking

There is no fee to park in the areas designated for free parking. NMSU personnel retired prior to September 1, 1992, may receive a free faculty/staff parking permit. Persons displaying a valid state issued disabled license plate or placard may park on campus for free in accordance with other provisions of this Rule. There is no fee for Visitor and Temporary permits.

### D. Parking Meter Rate

The rate charged to park in a metered parking space is included at **NMSU Parking Fee Schedule**.

### E. Refund of Paid Parking Permit Fee

Partial refunds for parking permits are available in some cases.

1. Permits purchased during the Fall semester may be returned prior to January 15 for a refund of the difference between the purchase price and the spring semester price.
2. Faculty and Staff terminating employment with NMSU are eligible for a refund which will be determined based on the date the permit is returned.
3. Any payroll deduction unpaid balances due to sabbatical leave, LWOP, workman's comp, etc., will be collected.
4. If Faculty or Staff terminate employment with NMSU and fail to return their permit, they will be responsible for any unpaid balance owed.
5. Requests for refunds are handled on a case-by-case basis by Transportation and Parking Services.

## PART 7: REQUIREMENTS FOR DISPLAY OF PERMIT

### A. Location of Moveable Permits

Moveable parking permits are the standard-issued permits. The parking permit shall be affixed to the inside, lower corner of the Windshield on the driver's side in such a manner that it does not obstruct the driver's vision when operating the Vehicle.

### B. Location of Permanently Affixed Permits

Permanent adhesive permits are issued for motorcycles and to those individuals requesting them. For motorcycles, the parking permit shall be affixed in a manner that is clearly visible. For Vehicles, the parking permit shall be affixed to the inside, lower corner of the Windshield on the driver's side in such a manner that they do not obstruct the driver's vision when operating the Vehicle.

### C. Location of Placards

All placards must be hung on rearview mirror.

### D. Visibility of Permit

Permits shall not be obstructed from view any time the Vehicle is parked on the NMSU campus. Permits should not be laminated, taped, or altered in any way. If permit does not adhere to Windshield, notify Transportation and Parking Services.

## E. One Permit

Only one current permit shall be displayed in a Vehicle, unless it is a departmental loading/unloading placard. All departmental loading/unloading placards must be used in conjunction with a valid NMSU parking permit displayed on the Vehicle.

## F. Visibility of Permit/Car Covers

Car owners are required to cut a small opening in the car cover so the parking enforcement officer can see the valid parking permit displayed on the driver's side Windshield. The license plate number shall also be written on the Windshield portion of the car cover using permanent marker.

# PART 8: PARKING REQUIREMENTS

## A. Designated Parking Areas/Parking Permits

All Students, Faculty, Staff, NMSU retirees, Commercial Vendors and other Visitors to campus who park in designated areas on campus, or who park on campus streets, must display a valid NMSU Parking Permit, including but not limited to those listed above, for that area and/or in the manner prescribed in these regulations. Signs or permits made by others, handwritten notes left on a Vehicle, or other such purported permits not issued by Transportation and Parking Services are prohibited and will not be honored. **The permits issued by Transportation and Parking Services with corresponding designated parking area are listed below**:

1. **"All Permits" Parking Areas:** (Indicated by orange color signage) Vehicles displaying any valid NMSU parking permit may be parked in this parking area. Vehicles displaying any valid NMSU parking permit may park in on street or curbside parking where there is no signage or curb color displayed to otherwise restrict parking.
2. **Annual All Access Visitor Permit:** Displaying an Annual All Access Visitor permit allows the holder to park in any legal parking space in any lot designation (including Faculty/Staff, Student, and Visitor areas), any free lot or along any street where parking is permitted and not otherwise restricted with the exception of emergency/fire zones, restricted service/delivery zones, disabled and other parking spaces marked with signage as specially reserved.
3. **Annual Outer Lot Visitor Permit:** (Indicated by orange color signage) Displaying an Annual Outer Lot Visitor permit allows the holder to park in the "all permits" parking areas any free lot or along any street where parking is permitted and not otherwise restricted with the exception of

emergency/fire zones, restricted service/delivery zones, disabled and other parking spaces marked with signage as specially reserved.

4. **North Campus Resident Parking:** (Indicated by yellow color signage) Vehicles displaying a North Campus Resident permit may be parked in North Campus Resident parking areas, which are restricted 24 hours daily, seven days a week, throughout the calendar year. Vehicles displaying this permit may also be parked in any "all permits" lot and in any free lot, as well as along any street where parking is permitted and not otherwise Restricted.
5. **South Campus Resident Parking:** (Indicated by purple color signage) Vehicles displaying a South Campus Resident permit may be parked in South Campus Housing parking areas, which are restricted 24 hours daily, seven days a week, throughout the calendar year. Vehicles displaying this permit may also be parked in any "all permits" lot and in any free lot, as well as along any street where parking is permitted and not otherwise Restricted. A campus resident permit is not required to park on the driveway; only one Vehicle may be parked on a driveway at any given time. Parking on the lawn (yard area) is strictly prohibited.
6. **Commuter Student Parking:** (Indicated by green color signage) Vehicles displaying a commuter student permit may be parked in lots so indicated, as well as in all-permits, free lots and along any street where parking is permitted and not otherwise Restricted.
7. **Disabled Parking:** (Indicated by blue color signage) NMSU honors any valid state-issued parking license plate or placard issued to a disabled individual. If a parking space designated for the disabled is not available, those displaying the disabled placard/plate may park in any other legal parking space in any lot designation (including Faculty/Staff, Student, and Visitor areas AND parking meters without having to pay), with the exception of emergency/fire zones, restricted service/delivery zones and other parking spaces marked with signage as specially reserved. Note: A disabled veteran (DV) license plate does not authorize recipient to park in a disabled parking zone without a valid state-issued disabled placard.
8. **Emergency/Fire Zone:** (Indicated by red curbs and/or signage)These parking zones are restricted to authorized emergency response Vehicles at all times (24 hours a day, seven days a week throughout the calendar year).
9. **Faculty/Staff Parking Permit:** (Indicated by crimson color signage) In addition to the parking areas designated for Faculty/Staff, Vehicles displaying this permit type may also be parked in any "all permits" lot and in any free lot, as well as along any street where parking is permitted and not otherwise Restricted. Faculty/Staff members residing in a Family Housing area shall display their Housing Resident decal in addition to their Faculty/Staff parking permit while parked in the Family Housing

streets or parking lots.

10. **Free Parking Areas:** (Indicated by brown color signage) Any Vehicle may be parked in a lot designated as a free lot. No permits are required to park in these areas.
11. **Motorcycle Permit:** A valid NMSU Motorcycle Permit is required for motorcycles, motor scooters, and mopeds to park on campus. All individuals operating a motorcycle, motor scooter, or moped must abide by NMSU Parking Rules and Regulations and must park in a motorcycle parking area Monday through Friday from 7:30 a.m. to 4:30 p.m. Motorcycles may not use automobile spaces except at paid meters. Exception: Between 4:30 p.m. and 7:30 a.m. Monday through Friday and weekends (Saturday and Sunday) motorcycles, motor scooters and mopeds may park in any legal parking space in any parking lot.
12. **Outer-Lot Employee Permits:** (Indicated by orange color signage) This type of permit is offered to Faculty and Staff at a lower cost than the Faculty/Staff permit and allows parking in the "All Permit Lots", or in any on-street parking area, with the exception of emergency/fire zones, restricted service/delivery, disabled zones and other parking spaces marked with signage as specially reserved zones.
13. S**ervice/Delivery Zones:** Unless otherwise posted, the maximum time period for parking in this zone is two (2) hours. These are marked either with signage and/or with green curbing. Restrictions apply 24 hours a day, seven days a week, throughout the entire calendar year. **To be authorized to park in this zone, the Vehicle must display any one of the following:**
    a. University Service Vehicle with university logo seal painted on the Vehicle door actively being used for the service or maintenance of university facilities;
    b. Departmental loading/unloading placard together with a valid student, Faculty/Staff or other university parking permit;
    c. Commercial Vendors Permit;
    d. Special or VIP permit.
14. **Reserved Parking Spaces:** There are a number of parking spaces reserved for exclusive use by certain constituencies on campus. These parking spaces are identifiable by signage in these areas indicating the restrictions. Examples include but are not limited to: "Dove Hall Parking Only", "ROTC Vehicles Only" etc.
15. **Special Events/Visitor:** (Indicated by hanging green placard) Visitors displaying a Special Events Visitor placard may park in any legal parking space in any lot designation (including Faculty/Staff, Student, and Visitor areas), as well as along any street where parking is permitted with the exception of emergency/fire zones, service/delivery zones and other parking spaces marked with signage as specially reserved.

16. **Temporary Parking Permit:** (Indicated by bright pink color hanging placard) Persons displaying a temporary parking placard may park in any legal parking space in any lot designation (including Faculty/Staff, Student, and Visitor areas), as well as along any street where parking is permitted with the exception of emergency/fire zones, service/delivery zones and other reserved zones.
17. **VIP Permit Parking:** (Indicated by white color) Persons displaying a VIP permit may park in any legal parking space in any lot designation, including Faculty/Staff, Student, Visitor areas, green curbed service/delivery zones and along any street where parking is permitted, in accordance with time limitations as indicated by the signage. Additionally, VIP permit holders may park in the "Visitors to the Chancellor's Office" area if they are attending a meeting with the executive administration in Hadley Hall. VIP permits are not valid in blue, red or yellow curbed areas. VIP permits are not valid in parking spaces marked with signage as specially reserved. The charge to park at a meter is not waived for VIP permits. The parking meter rate is included at **NMSU Parking Fee Schedule**.
18. **Special Permit Parking:** (Indicated by black color signage) Persons displaying a Special permit may park in any legal parking space in any lot designation, including Faculty/Staff, Student, Visitor areas, green curbed service/delivery zones and parking spaces marked "special permit only", in accordance with time limitations as indicated by the signage. Additionally, Special permit holders may park in the "Visitors to the Chancellor's Office" area if they are attending a meeting with the executive administration in Hadley Hall. Special permits are not valid in blue, red or yellow curbed areas. Special permits are not valid in parking spaces marked with signage as specially reserved. The charge to park at a meter is not waived for Special permits. The parking meter rate is included at **NMSU Parking Fee Schedule**.
19. **Visitor Placard or E-Permit:** (Indicated by white hanging placard or a printed E-Permit) Daily and weekly Visitors displaying either a visitor placard or E-Permit may park in any legal parking space and along any street where parking is permitted, with the exception of emergency/fire zones, service/delivery zones and other reserved parking spaces marked with signage as specially reserved.

## B. Exceptions to Requirement for Permit

The following are exempt from the requirement for a valid NMSU permit to be able to park in the designated parking areas:

1. **Official Governmental Vehicles:** Vehicles displaying Official Government License Plates not affiliated with NMSU are allowed to park

in any legal parking space in any campus parking lot, but are restricted from parking in any service zone, loading and unloading zone or Visitor area. Any time limits indicated on official signs must be followed to avoid receiving a citation. Vehicles displaying Official Government License Plates may park at a parking meter at no charge. Parking at a space designated for disabled person requires display of a valid disabled placard. Under no circumstances, shall these Vehicles park in an emergency/fire zone, unless they are authorized emergency Vehicles being used in the direct support of emergency services.

2. **NMSU Vehicles:** NMSU Vehicles displaying Official Government License Plates may park in any legal parking area. NMSU Vehicles shall *not* park in spaces designated for disabled persons, unless a valid disabled permit/placard is displayed; in designated visitor parking spaces; in metered parking spaces; or in reserved parking spaces marked with signage as specially reserved. Under no circumstances shall these Vehicles park in an emergency/fire zone, unless they are authorized emergency Vehicles being used in the direct support of emergency services. NMSU Vehicles may park in service/delivery/loading zones (green curbs) in accordance with these regulations.
3. **Vehicles with Disabled Placard/Plate:** If a parking space designated for Disabled Parking is not available, a Vehicle displaying a valid disabled placard/plate may park in other legal parking spaces, except where painted curbs or signs restrict or otherwise regulate such parking. Additionally, a Vehicle displaying a valid disabled placard/plate is authorized to park in a metered parking space, free of charge.
4. **Construction Contractors:** Contractors and Vehicles of their construction workers are exempt from these regulations when parked within a clearly defined construction site that has been approved for parking by the appropriate Facilities and Services Project Manager, as well as by Transportation and Parking Services;

## C. Effective Hours of Parking Restrictions

1. All designated parking areas are restricted to holders of the appropriate permits Monday through Friday from 7:30 a.m. to 4:30 p.m. Anyone may park in any Faculty/Staff, Commuter Student, “all permits” or visitor parking space, without a permit, after 4:30 p.m. and before 7:30 a.m., as well as on weekends.
2. Campus resident parking is restricted 24-hours a day.
3. Service/delivery and reserved parking areas, include but are not limited to disabled zones, emergency/fire zones, Post Office patron parking, “no parking” zones are restricted 24 hours a day unless signage indicates otherwise.
4. Parking meters are in effect from 7:30 a.m. to 4:30 p.m., Monday through

Friday.

## D. Metered Parking

No permit is required to park in a metered parking space. Except as provided above for individuals with disabilities displaying a valid disabled placard or plate, any person who parks in a metered parking space shall deposit the required amount in the meter to pay for the right to park there, regardless of the display of valid NMSU Parking Permit or placard, government license plate or other visitor status, or other circumstance. All failures to pay at metered parking spaces will be subject to citation. If a meter is malfunctioning, it should be reported immediately to Transportation and Parking Services at (575) 646-1839 in order to avoid receiving a citation.

## D. Parking on Street

Vehicles displaying any type of valid NMSU parking permit may be parked on the streets on campus, including “outer-lot employee”. On-street parking is restricted or prohibited where colored curbs and/or signage so indicate, or where such parking obstructs the movement or safety of traffic.

## E. Bus Parking

All Buses shall park in parking lot #30 east of the Pan Am Center.

## F. Prohibited Parking

Except in compliance with the lawful directions of a traffic control device or officer, or as otherwise provided in these regulations, it is unlawful to park or stop a motor Vehicle as follows:

1. On any sidewalk;
2. In front of a public or private driveway;
3. Within 15 feet of a fire hydrant;
4. On a crosswalk;
5. Within an intersection;
6. Double parked (meaning parked behind or beside another legally parked Vehicle in such a way as to block the second Vehicle or to impede the flow of traffic);
7. Any place where official signs prohibit or restrict parking, stopping, or loading/unloading (including any areas marked by red, yellow, green, or blue curbs);
8. On any grassed area or dirt area not designated as a parking area, including within the NMSU residential housing areas;
9. On the traveled portion of any roadway (including while loading or unloading passengers);

10. In those areas bordered or outlined by curbs, unless outlined as an authorized parking area;
11. Outside a marked stall or outlined parking area;
12. On the driver's left-hand side of the roadway, facing the wrong lane of traffic (except on one-way streets where on-street parking is permitted);
13. Over 18 inches from any curb;
14. In any timed area over the designated time;
15. In front of areas allowing disabled (accessible) Vehicle loading and unloading areas and access ramps (blue curbs, blue pavement, and blue ramps);
16. Within 20 feet of a crosswalk at an intersection;
17. Within 30 feet upon the approach to any stop sign or traffic control signal at the side of a roadway;
18. Within 20 feet of the driveway entrance to any fire or police station and within 75 feet on the side of a street opposite the entrance to any fire or police station (when appropriately signed);
19. In any designated bicycle path;
20. In a parking lot driving lane; or
21. Any Vehicle overnight in any location on campus without permission.

### H. Test Parking Programs

Test parking programs may be initiated at the discretion of Transportation and Parking Services for the purpose of studying parking alternatives. Thirty days advance notice shall be given to the university community regarding any proposed test program, and the test program shall not be operated for more than one (1) year without the approval of the Board of Regents.

### I. Parking for Special Events

The university may assess special rates for parking in certain areas during special events (including athletic events). Permission for a department, group, or event sponsor to charge for such parking must be obtained from Transportation and Parking Services prior to the special event.

## PART 9: VEHICLE OPERATION REQUIREMENTS

In addition to the parking policies set forth herein and enforced by Transportation and Parking Services, the following rules and regulations apply regarding the operation of Vehicles on NMSU premises. The NMSU Police Department shall enforce the Vehicle operation policies in this Section,

consistent with state traffic laws.  On the public rights of way located on campus, the traffic laws of state of New Mexico shall apply and be enforced by the NMSU Police Department in accordance with state law.

### A. Vehicles Abandoned or Unlicensed on Campus

No abandoned or unlicensed motor Vehicle(s) including motorcycles, motor scooters or mopeds shall be allowed to remain on NMSU property.

1. A Vehicle is considered abandoned if it is left unattended and not moved from its current location for more than two (2) weeks. Any Vehicle which is partially dismantled or wrecked and/or that does not display a current license plate and which is left in such condition for more than two (2) weeks shall also be considered abandoned.
2. A Vehicle is considered unlicensed if it does not have a current and valid state-issued registration plate and/or sticker.
3. **After the Vehicle has been reported to or discovered by Transportation and Parking Services, and the Vehicle is found to be**: (a) not stolen; (b) the legal ownership cannot be established by normal record-checking procedures; and (c) legal or equitable ownership not claimed or asserted by any person; the Vehicle shall be towed and impounded.
4. All abandoned or unlicensed Vehicles will be towed after 30 days of being reported, identified and/or cited.

## PART 10:  CONTROLLED ACCESS AREAS FOR MOTORIZED VEHICLES

### A. Background

The operation of motorized Vehicles (electric or combustion engine) in a university setting is always a challenge between providing adequate access to enable the operational needs of the campus to be met versus the pedestrian nature and desired feel of a campus setting. If the rules established are too restrictive then day to day operations of a campus are harmed. If no restrictions are in place then Vehicles are daily operated in a manner that is not in the best overall interest of the institution.

### B. Legal Basis

State law establishes the ability for local jurisdictions to place restrictions on the operation of motorized Vehicles on controlled access areas. The enforcement of these restrictions, once established, falls to the police

department. Violations of these controlled access restrictions will be cited in accordance with state law.

## C. Need for Controlled Access

Operation of motorized Vehicles on sidewalks is a direct conflict with their primary intended use for pedestrian traffic. Furthermore it damages the sidewalks resulting in increased cost to maintain this infrastructure in a reasonable condition. Operation of motorized Vehicles on turf areas damages turf and trees, thereby harming the investment made in the establishment and maintenance of our landscaped areas of the campus.

## D. Valid Reasons for Access

There are valid reasons for operating motorized Vehicles within controlled access areas:

1. Motorized wheelchairs, personal assistive mobility devices (Segway Human Transporters), or other motorized equipment used to provide disabled access.
2. Response to emergencies. Emergencies include any action to protect human life; well-being and to prevent potential damage to property or to respond to utility outages.
3. Deliveries to or transport from specified buildings otherwise inaccessible. It is recognized that several facilities have no delivery access without travel through a controlled access area. These buildings are listed below. Access routes and access parking zones shall be established for these buildings, which shall be available for viewing at **NMSU Controlled Access Area**.
    a. Aggie Memorial Stadium
    b. Foreman Hall
    c. Academic Research C
    d. Guthrie Hall
    e. Branson Library
    f. Hadley Hall
    g. Chamisa Village
    h. Health and Social Services
    i. Computer Center
    j. Jett Hall
    k. Engineering Complex I

## E. Defined project specific access

Certain activities such as movement of heavy loads, athletic events, special events, projects involving the remodel or construction of campus facilities and

infrastructure require, by their very nature, limited entry to controlled access areas of the campus. This access route will be established by the project manager as best possible and signed accordingly during the course of the event/project life.

### F. Use of Turf Vehicles

Maintenance of the campus turf areas requires access by specialized turf Vehicles. Nothing in this rule is intended to restrict access to turf areas by these Vehicles.

### G. Non-emergency Access by Police, Fire and Shuttle Vehicles

Access rights are given to Police and Fire response Vehicles for training activities and patrol activities when access will increase the safety of campus population and its real property assets. Limited access on approved routes is granted to Vehicles providing shuttle service to the NMSU campus.

## PART 11: UTILITY CART SAFETY PROGRAM

**Utility Carts**. Small utility service Vehicles, herein referred to as 'Utility Carts', include golf carts, turf Vehicles and small rough terrain Vehicles that are allowed on controlled access areas and/or streets of the campus.

These small utility carts are used to move people, deliver supplies, and carry tools or small equipment throughout the workplace. Operation of utility carts on sidewalks poses risks to pedestrians and therefore requires special training and responsibility to prevent incidents and potential injury. All individuals operating utility carts must be trained before using the Vehicles.

Reading and understanding the Utility Cart Safety Program and responsibilities of cart operation plus additional machine specific use instruction will serve as the required training to be administered by each department or area utilizing utility carts.

Other low speed Vehicles capable of exceeding 20 mph must be primarily operating over roadways, not controlled access areas. Individuals operating low speed roadway use Vehicles will be required to attend Defensive Driving and be permitted according to the NMSU Vehicle Use Procedures.

**Rule**: The Utility Cart Safety Program (UCSP) is in accordance with 49 CFR 571.500, Standard 500; Low-speed vehicles, NMSU Vehicle Use Procedures, NMSU Controlled Access Areas Rule and Sections 66-3-802, 66-3-804, 66-3-805,

66-3-828, 66-3-840, 66-3-843, 66-3-845, 66-3-852, 66-3- 854, 66-3-887, 66-3-1103, 66-7-9, 66-7-305, 66-7-308, 66-7-325, 66-7-326, 66-7-351, 66-7-372, and 66-7-405 (1978, et seq.) of the New Mexico Statutes Annotated.

## A. Authority and Responsibility

Below mentioned attachments can be found at NMSU Utility Cart Safety.

## B. Environmental Health and Safety is responsible for

1. Developing and administering the UCSP.
2. Performing validation of driver license for cart operators.
3. Providing a cart operators permit to authorized drivers which is valid for 3 years.
4. Reviewing and updating the UCSP and training material when necessary.

## C. NMSU Police Department is responsible for

1. Enforcing all applicable motor vehicle statutes.
2. Shall impound, if necessary, utility vehicles observed to be carelessly driven.

## D. NMSU Office of Transportation and Parking Services is responsible for

1. Enforcing parking restrictions.

## E. Deans, Directors, Department Heads and Supervisors are responsible for

1. Perform Utility Cart Safety Inspection and submit checklist – Attachment B- to EH&S.
2. Affixing identification decal issued by EH&S.
3. Assuring that UCSP Policy Acknowledgement Form (Attachment C) is completed by each operator and sent to EH&S (MSC 3578) with a copy of operator's driver's license.
4. **Assuring that prior to operating a utility cart, each individual:**
    a. Receives machine specific operational instruction
    b. Receives periodic evaluation, counseling and training as may be appropriate to correct non-compliance with the safety program
5. Assuring that each utility cart owned, leased, or operated by their department receives annual preventative maintenance and repair services.
6. Assuring that utility cart(s) and operators, within their department, comply with the UCSP.
7. Assuring that utility carts are operated in accordance with manufacturer's

recommendations. Utility vehicles shall not be modified in any manner that affects the recommended mode of operation, speed or safety of the Vehicle. If applicable, utility carts must be tagged with the maximum load capacity recommended by the manufacturer.

## F. Operators of utility carts are responsible for

1. Following the Utility Cart Safe Operating Procedures outlined in Attachment 'A'.
2. Acknowledging responsibility and accountability for compliance by completing the UCSP Policy. Acknowledgment Form as shown in Attachment 'C'.
3. Having a valid driver's license.
4. Having obtained a utility cart operators permit (from EH&S).
5. Having received cart specific operational instruction prior to operating the cart.
6. Understanding their responsibilities and requirements under the UCSP.
7. Providing timely notification of safety and maintenance concerns regarding utility cart to the supervisor of the department to which the Vehicle is registered.

## G. Utility Cart Required Equipment

The following equipment must be present and operational on all utility carts:

1. Unique identifying number prominently displayed on Vehicle in 3 inch minimum letters.
2. Brakes.
3. Ignition or power shutoff or security systems.
4. Vehicle seat belt, if offered by manufacturer.
5. Horn or audible warning device.
6. Rear view mirrors.
7. Slow moving Vehicle safety triangle on rear of Vehicle OR warning lights on front and rear of Vehicle or top mounted strobe light if Vehicle is unable to travel at the same speed as normal traffic.
8. Equipment tie downs for service Vehicles.
9. Lights (head, tail, brake) for all night use Vehicles.
10. Any utility cart capable of being operated in excess of 15 miles per hour shall be equipped with seat belts and lights regardless of time of day or night use.

## H. Vehicle Fueling and Storage

All operators must receive department specific fueling instructions when applicable and all vVhicles must be charged and stored in approved sites. Each

of these sites will take into account machine specific hazards (e.g. flammability of fuel, off gassing of hydrogen from battery charging). Chargers for low speed electric Vehicles must be plugged directly into a ground fault interrupter receptacle. Extension cords shall not be utilized unless the Vehicle is specifically approved for such and this use is noted during the Inspection and Registration process.

## PART 12: FRAUDULENT PRACTICES PROHIBITIED

It is unlawful and a violation of these regulations to intentionally falsify information in order to obtain a NMSU Parking Permit, to use a NMSU Parking Permit issued to another person without their knowledge and authority, or to alter, forge, reproduce, counterfeit, or steal any NMSU Parking Permit.

Anyone found to have engaged in fraudulent practices shall have their parking privileges at NMSU permanently revoked, and may be subject to other administrative (*i.e*. employee discipline up to and including termination), civil and/or criminal sanctions.

Vehicles found to be displaying NMSU parking permits that have been reported as stolen may be seized as evidence for the purposes of criminal prosecution.

## PART 13: REGULATION ENFORCEMENT

To enforce these regulations, Transportation and Parking Services may:

A. Issue citations, collect fines and fees;
B. Place Vehicle on the “Tow or Boot” list;
C. Immobilize a Vehicle by “booting” the Vehicle’s wheel;
D. Have the Vehicle towed and impounded;
E. Cancel parking permits and revoke parking privileges for excessive violation of these regulations or the failure to pay outstanding fines and fees;
F. Prohibit (or cancel at any time during the year) the pre-registration or registration for classes;
G. Refer the Faculty, Staff or Student to the Student Discipline Office or NMSU Office of Human Resource Services, as appropriate for administrative action;
H. Withhold NMSU records, including academic credits, transcripts, and diplomas until all fines and other fees are paid; or
I. Employ private collection agencies to collect outstanding unpaid fines and fees.

# PART 14: VEHICLE BOOTING AND/OR TOWING

The following policies apply when Transportation and Parking Services has determined that the appropriate remedy for a violation of a parking or traffic regulation is to immobilize or tow and impound a Vehicle:

## A. Definition of "Boot"

A device which mounts on/around a Vehicle's tire or wheel to prevent or discourage vehicular movement. These may be legally attached and released only by Transportation and Parking Services.

## B. Placement on "Tow or Boot" List

A Vehicle may be placed on the tow or boot list for:

1. Two or more outstanding citations;
2. Non-payment of fines or fees imposed under this Rule;
3. Returned checks written to Transportation and Parking Services;
4. Breach of citation payment agreement;
5. Display of a cancelled permit;
6. Display of an altered permit;
7. Display of a stolen permit; or
8. Violation of previous revocation of parking privileges.

## C. Reasons for Tow or Boot:

A Vehicle may be towed or booted when:

1. It is parked in a Tow-Away Zone;
2. It is parked in such a manner as to obstruct traffic or present a hazard;
3. It is on the "tow or boot" list. Vehicles on the "tow or boot" list are subject to enforcement action when otherwise legally parked on campus (including in free lots);
4. Otherwise interfering with the safe movement of pedestrian or motor Vehicle traffic;
5. Any visible indication that the boot has been tampered with while affixed to the Vehicle; or
6. As otherwise provided by law.

## D. Removal of Boot/Release from Tow

To have the boot removed requires payment of a fee, in addition to full payment of accrued fines. The fee for boot removal is included at **NMSU Parking Fee Schedule**.

1. Immobilized Vehicles will remain “wheel-locked” until the outstanding fines and fees are paid in full. The Vehicle’s registered owner or operator must pay for the boot removal and applicable fines at Transportation and Parking Services located at 1400 E. University Avenue, Las Cruces, NM from 8:00 a.m. to 4:30 p.m. or at the Corbett Center Student Union Information Desk from 4:30 p.m. to 9:00 p.m., Monday through Friday. Note: There are no boot releases on holidays or weekends.
2. Vehicles immobilized for longer than 96 hours shall be towed from NMSU property to a designated storage facility of the towing company. The Vehicle registered owner or operator will be responsible for all applicable towing and storage charges.
3. Charges in addition to the boot removal, and/or towing and/or storage fees may be assessed against the Vehicle owner or operator, depending upon the circumstances (*i.e.* rental car or dealership agencies). If a permit was displayed in the Vehicle that was booted or towed, the permit holder may also be held responsible.

## PART 15: CITATIONS – FINES AND FEES; APPEAL PROCESS

### A. Issuance

The NMSU Office of Transportation and Parking Services is hereby granted the authority to issue parking citations on any lands under the control of the NMSU Board of Regents. All such citations shall be issued in accordance with policies and procedures set forth by the Office of Transportation and Parking Services.

### B. Fines and Fees

Pursuant to Section 29-5-1.1, NMSA 1978, *et seq*., a parking citation must be paid or contested within five (5) business days from the date it was issued. Fines and fees are included at **NMSU Parking Fee Schedule**.

### C. Payment of Citation Fines and Fees

Instructions on how to pay the fines and fees are included with each citation issued. Payment may be made at Transportation and Parking Services during posted hours, via mail at P.O. Box 30001/MSC 3PAR, Las Cruces, NM 88003-8001 (when paying by check or money order), via telephone at 575-646-1839 (when paying using a Visa, Master Card, or Discover credit card).

### D. Fees Related to Towing and Impound

Authorized fees charged for Vehicles that are towed and/or booted by the Transportation and Parking Services are included at **NMSU Parking Fee Schedule**.

## E. Dismissal of Citations

1. Any individual receiving a citation presenting such citation to Transportation and Parking Services within five (5) business days from the date of issuance, may elect to have the citation reduced to a warning if the recipient has not had a citation dismissed or reduced to a warning within the prior two (2) years.
2. If the citation was issued for "no permit displayed", the recipient may elect to have the citation reduced to a warning if the recipient purchases a permit and is eligible to purchase such permit.
3. This section does not apply to citations issued for illegally parking in a parking space designated for the disabled, in an emergency/fire zone, or yellow zone.

## F. Citation Appeals Hearing Process

A fair and impartial appeal hearing is provided for each individual's case.

1. Citations must be contested by submitting a Citation Appeal Form within five (5) business days of issuance. Forms may be submitted online at **nmsuparking.com** or at Transportation and Parking Services located at .The elapse of five (5) business days results in the violator's forfeiture of their right to appeal the citation. If after an internal review the appeal is not granted, the appeal will automatically be scheduled for the Parking Citation Appeal Hearing Officer at the next available scheduled hearing.
2. Transportation and Parking Services shall schedule the hearing dates and times on behalf of the NMSU Parking Citation Appeal Hearing Officer. Notice of the date, time and place of the hearing shall be provided to the appellant seven (7) business days in advance of the hearing date. If the appellant fails to appear at the hearing or seek a continuance, the hearing officer may uphold the citation, and add the administrative fee to the amount of the fine.
3. Transportation and Parking Services will maintain on file the hearing docket and decisions of each session at which the Citation Hearing Appeal Officer hears cases under its jurisdiction.
4. Arguments by appellants before the Citation Appeal Hearing Officer shall be limited to those issues raised in the written appeal. Mitigating circumstances are limited to a determination that there was a failure on the part of the university to clearly mark or otherwise designate parking areas.
5. **The Citation Appeal Hearing Officers are empowered to take the**

**following action on a citation brought before them:**

1. Uphold the citation
2. Reduce the citation to warning
3. Reduce the citation fine by one-half if mitigating circumstances are found

6. The decision of the Citation Appeal Hearing Officer is final.
7. An administrative fee, as authorized by law, shall be added to all citations upheld by the Citation Appeal Hearing Officer. Said amount shall be paid to Transportation and Parking Services, along with the citation amount at the time of judgment. If appellant does not pay/fulfill any judgment, fines, and/or hearing costs assessed within five business days, the cited Vehicle will be added to the "tow or boot" list, and subject to other sanctions under this Rule. Citations upheld due to appellant failing to appear at the appeal hearing will have five (5) business days to pay the citation and administrative fee; failure to pay fees within the five business days will automatically put Vehicle on the "tow or boot" list.

## PART 16: FEE SCHEDULE

*See* **NMSU Parking Fee Schedule**

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 16 | Safety and Risk Management

**Rule Administrator:** Director Transportation Services

**Last Updated:** 10/21/2013

## Related

**Cross-Reference:**
**Revision History:**

2017 Recompilation, formerly Rule 2.95
10/21/2015 Policy 2.95 replicated by Board of Regents as initial Rule 2.95
10/21/2013 Policy 2.95 amended by Board of Regents
05/06/2011 Policy 2.95 amended by Board of Regents
04/08/2011 Parking Permit Rates amended by Board of Regents
07/20/2010 Policy 2.95 amended by Board of Regents
04/01/2010 Parking Permit Rates amended by Board of Regents
07/14/2009 Policy 2.95 amended by Administrative Council; 07/29/2009

Ratified by Board of Regents
03/10/2008 Parking Permit Rates amended by Board of Regents
02/12/2008 Former Traffic and Parking Regulations amended and restructured as Policy 2.95 by Administrative Council, with 03/08/2008 Effective Date;
07/15/2008 Ratified by Board of Regents

---

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 16.86 – Traffic and Parking Regulations for Community Colleges

arp.nmsu.edu/16-86

## PART 1: PURPOSE, AUTHORITY AND SCOPE

A. **Purpose**: This regulation provides for the consistent and fair treatment of students, faculty, staff, affiliates and other visitors at the NMSU community college campuses with regard to optimal use of available parking, and the safe movement of traffic.

B. **Authority**:
   1. This regulation is established pursuant to the authority granted to the New Mexico State University Board of Regents (NMSU) by NMSA 1978, § 29-5-1.1 to promulgate regulations governing the operation and parking of vehicles on property under its control which is not a municipal street or highway.
   2. The NMSU Office of Transportation and Parking Services, working in coordination with the community campus designated Parking Liaisons and other authorized designees of the community college president, and the NMSU Police Department are assigned the responsibility and legal authority for the implementation, application and enforcement of these regulations.

C. **Effective Date and Scope of Application**: This regulation will become effective at each NMSU community college campus after thirty days formal written notice to the NMSU Police Department and the NMSU Office of Transportation and Parking Services of the community college's intent to institute a traffic and parking program. The NMSU-Carlsbad campus has announced its interest in commencing a traffic and parking program, which will become effective upon adoption of this rule.

## PART 2: NOTICE; DEFINITIONS

A. **Notice**: A copy of this regulation and the Fee Schedule from **ARP 16.85**,

Part 16 will be made available to anyone requesting a copy at the NMSU Office of Transportation and Parking Services and in the Business Office of each community college with a traffic and parking program. This regulation will also be available online at **https://park.nmsu.edu** and **https://carlsbad.nmsu.edu**. The NMSU Office of Transportation and Parking Services serves as a resource to the community colleges and to the extent practicable, implementation of the traffic and parking program at the community colleges will be consistent with implementation of the traffic and parking programs at the NMSU-Las Cruces campus.

B. **Definitions**: For purposes of this regulation, the following definitions will apply:
    1. Abandoned Vehicle: A vehicle is considered abandoned if the vehicle is unattended and not moved from its current location for more than two (2) weeks or is partially dismantled or wrecked.
    2. Car: A car is defined as a vehicle licensed for over the road travel, with four wheels and designed to carry a maximum of six (6) adult people. A car is not a pickup or truck (regardless of size), motorcycle, motorized tricycle, mini-van, SUV, trailer, motorhome or bus.
    3. Parking Stall or Space: A parking stall or space is that which accommodates a single vehicle and is clearly defined by painted lines on adjacent sides of the vehicle.
    4. Restricted: (red) Fire/Emergency zones, (yellow) “no parking” zones, (blue) disabled zones, parking spaces marked with signage as specially reserved, or any other restricted area indicated by signage.
    5. Unlicensed Vehicle: A vehicle is considered unlicensed when the vehicle does not display a current license plate or does not display a valid state-issued registration plate and/or current registration sticker.
    6. Vehicle: Vehicle refers to any vehicle or device that is propelled by an internal combustion engine, electric or other power that is used or may be used on the roadway for purpose of transporting persons or property, including connected trailers. A vehicle must fit within a single parking stall. Examples of vehicles include but are not limited to: trucks, cars, motorcycles, motor scooters and mopeds.
    7. Windshield: The window that is located in front of the driver when facing forward.
C. **Penalties and Fees**: Any penalties or fees to be imposed for violations of this regulation must be consistent with state law, university rules and regulations at ARP 16.85, or as otherwise approved by the NMSU Board of Regents.
D. **NMSU Authority to Place Barrier**: Barriers, fences, signs, posts or other

traffic or control devices may be placed by the community colleges and/or their authorized agents at any location necessary for the safety of the public and/or work crews. Removal or moving any such safety or warning device is prohibited. Violators will be cited. These must be placed with the approval from the president of the community college or designee authorized in writing, in coordination with Transportation and Parking Services and the NMSU Police Department.

E. **Individual Responsibility:** The community colleges do not regularly provide security specific to parking areas, and assume no responsibility for the care or protection of vehicles, including their contents, parked on its property; individual owners are encouraged to follow safety guidelines relating to parked vehicles.

## PART 3: PARKING REQUIREMENTS

A. **Prohibited Parking**: Except in compliance with the lawful directions of a traffic control device, a law enforcement officer with jurisdiction, or as otherwise provided in these regulations, it is unlawful to park or stop a motor vehicle as follows:
   1. On any sidewalk;
   2. In front of a public or private driveway;
   3. Within 15 feet of a fire hydrant;
   4. On a crosswalk;
   5. Within an intersection;
   6. Double parked (meaning parked behind or beside another legally parked vehicle in such a way as to block the second vehicle or to impede the flow of traffic);
   7. In any manner inconsistent with official posted signage (e.g. parking in a designated parking area without a permit affixed to windshield, if signage requires a permit);
   8. On any landscaped area or dirt area not designated as a parking area;
   9. On a thoroughfare (including while loading or unloading passengers);
   10. In those areas bordered or outlined by curbs, unless outlined as an authorized parking area;
   11. Outside a marked stall or outlined parking area;
   12. On the driver's left-hand side of the roadway, facing the wrong lane of traffic (except on one-way streets where on-street parking is permitted);
   13. Over 18 inches from any curb;
   14. In any timed area over the designated time;

15. In front of areas allowing disabled (accessible) vehicle loading and unloading areas and access ramps (blue curbs, blue pavement, and blue ramps);
16. Within 20 feet of a crosswalk at an intersection;
17. Within 30 feet upon the approach to any stop sign or traffic control signal at the side of a roadway;
18. In any designated bicycle path;
19. In a parking lot driving lane; or
20. Any vehicle overnight in any location on campus without permission.

B. **NMSU-Carlsbad Designated Parking Areas**: If a parking area is not designated with signage for a specific type of vehicle or purpose, any vehicle may park in it. If a parking area is limited to a specific type of vehicle or purpose, a permit (issued by NMSU-Carlsbad or by the State for Parking for Persons with Disabilities) is required to be displayed on the windshield, with the exception of on-duty NMSU service vehicles, police, fire/EMS vehicles. The NMSU Office of Transportation and Parking hereby establishes the following parking areas on the NMSU Carlsbad campus:
    1. Parking for Cars (See definition of “car” above)
    2. Parking for Motorcycles
    3. Parking for Employee of the Month
    4. Parking for Persons with Disabilities
    5. Parking for Loading/Unloading
    6. Parking for NMSU Service Vehicles
    7. Parking for on-duty Police, Fire and EMS Emergency Vehicles

C. **Signage**: Parking areas restricted to a specific type of vehicle or purpose will be marked with appropriate signage. All drivers are required to obey all signage, including temporary signage.

D. **Conflict between Regulations, Designation on Map and Signage**: In the event of a conflict between this regulation and on site signage that specifies parking instructions, the official on-site signage will control.

## PART 4: ABANDONED AND UNLICENSED VEHICLES

No abandoned or unlicensed vehicle(s) including will be allowed to remain on NMSU property, including the community college campuses. After a minimum of thirty (30) days have passed from the date a vehicle is first reported or documented as potentially abandoned or unlicensed, and provided the vehicle has not been confirmed as a stolen, legal ownership cannot be determined through standard records checks, and legal/equitable ownership is not claimed by any person, the vehicle will be towed and impounded.

## PART 5: ENFORCEMENT

To enforce this regulation, the community college parking liaisons and other authorized designees of the community college president are authorized to work with the Office of Transportation and Parking Services to:

A. Issue citations, collect fines and fees;
B. Place vehicle on the "Tow or Boot" list;
C. Immobilize a vehicle by "booting" the vehicle's wheel;
D. Have the vehicle towed and impounded
E. Prohibit (or cancel at any time during the year) pre-registration or registration for classes;
F. Refer the faculty, staff or student to the Student Discipline Office or NMSU Office of Human Resource Services, as appropriate for administrative/disciplinary action;
G. Withhold NMSU records, including academic credits, transcripts, and diplomas until all fines and other fees are paid; or
H. Employ private collection agencies to collect outstanding unpaid fines and fees.

## PART 6: CITATIONS, FINES AND FEES

A. **Issuance of Citation**: The community college campus parking liaisons are hereby granted authority to issue parking citations, consistent with this regulation and guidance from NMSU Office of Transportation and Parking Services.
B. **Fines and Fees**: Pursuant to Section NMSA 1978, §29-5-1.1, et seq., a parking citation must be paid or contested within five (5) business days from the date it was issued. Fines and fees are included at NMSU Parking Fee Schedule.
C. **Payment of Citation Fines and Fees**: Instructions on how to pay the fines and fees must be included with each citation issued. Payment may be made online at **https://park.nmsu.edu,** in person at the appropriate community college business office during posted hours, or via mail to the business office.
D. **Fees Related to Towing and Impound**: Fees charged for vehicles towed or booted will be the same as those set forth in **ARP 16.85**.

## PART 7: INFORMAL REVIEW OF CONTESTED CITATIONS

A. **Request for Review and Reduction to Warning**: An individual who questions the basis for a citation received at the community colleges may present within five (5) days from date of issuance of the citation, to the community college business manager and request an informal review of the citation. Upon such review, if it is evident that the university erred in issuing the citation, the citation may be dismissed without a formal appeal process.
B. **Eligibility for Reduction of Citation to Warning**: If the individual has not had a citation dismissed or reduced to a warning within the two previous years, the citation may be reduced to a warning and the penalty/fees dismissed, provided the citation was not for parking in a space reserved for persons with disabilities or an emergency/fire zone.
C. **Consequences of Citation:** If after an initial review, the citation is not dismissed or reduced to a warning, the individual must either pay the applicable fines/fees or contest the citation by filing an appeal.

## PART 8: HEARING PROCESS TO CONTEST CITATION

A. **Availability of Fair and Impartial Appeal Hearing**: A fair and impartial appeal hearing process is provided for those who wish to contest a citation they receive.
B. **Commencement of Appeal Process/Deadline to Submit**: Citations may be contested by submitting a Citation Appeal Form within five (5) business days of issuance. Forms for citations received at the NMSU-Carlsbad campus may be submitted online or at the NMSU Carlsbad Business Office. The elapse of five (5) business days results in the forfeiture of the individual's right to appeal the citation, and penalties will be assessed.
C. **Scheduling the Hearing/Failure to Appear**: The community college president's designee will schedule the hearing dates and times on behalf of the NMSU Parking Citation Appeal Hearing Officer. Notice of the date, time and place of the hearing will be provided to the appellant seven (7) business days in advance of the hearing date. If the appellant fails to appear at the hearing or seek a continuance, the hearing officer may uphold the citation, and add the administrative fee to the amount of the fine.
D. **Recordkeeping**: The community college president's designee will maintain

on file the hearing docket and decisions of each session at which the Citation Hearing Appeal Officer hears cases under its jurisdiction.

E. **Hearing Protocols**:
    1. When presenting to the Citation Appeal Officer, the position of each party to the appeal will be limited to those issues raised in the written appeal.
    2. Based on the evidence presented by the parties at the appeal hearing, the Citation Appeal Hearing Officer is authorized to take the following action:
        a. Uphold the citation
        b. Reduce the citation to warning
        c. Reduce the citation fine by one-half, if mitigation circumstances are found. Mitigating circumstances are limited to a finding that there was a failure on the part of the university to clearly mark or otherwise designate parking areas.
    3. The decision of the Citation Appeal Hearing Officer is final.
F. **Administrative Fee**: An administrative fee, as authorized by law, will be added to all citations upheld by the Citation Appeal Hearing Officer. Said amount will be paid to the community college president's designee along with the citation amount at the time of judgment.
G. **Consequences for Failure to Pay Penalty/Fees**: If the appellant does not pay/fulfill any judgment, fines, and/or hearing costs assessed within five business days, the cited vehicle will be added to the "tow or boot" list, as described in **ARP 16.85**. Citations upheld due to appellant failing to appear at the appeal hearing will have five (5) business days from the date the hearing was scheduled to pay the citation and administrative fee; failure to pay fees within the five business days will automatically put vehicle on the "tow or boot" list. ***See* ARP 16.85**.

## Details

**Scope:** Carlsbad Campus

**Source:** ARP Administrative Rules and Procedures Chapter 16 | Safety and Risk Management

**Rule Administrator:** Carlsbad Community College President

**Last Updated:** 04/12/2019

## Related

**Cross-Reference:**
**ARP 16.85 – Parking and Traffic Regulations**

**Revision History:**
04/12/2019 Rule approved by Chancellor

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# Chapter 17 | Intercollegiate Athletics

arp.nmsu.edu/chapter-17

## Subsections in Chapter 17


- 17.05 – NMSU Athletics
- 17.15 – The Athletics Council
- 17.20 – NCAA and Conference Participation and Compliance
- 17.25 – Faculty Athletics Representative
- 17.30 – Ticket Sales
- 17.35 – Booster Club Fund Raising
- 17.40 – Media Rights Relating to NMSU Athletics


## Details

**Scope:** NMSU System
**Source:** ARP Chapter 17 | Intercollegiate Athletics

**Rule Administrator:**
**Last Updated:** 09/20/2017

## Related

**Cross-Reference:**
**Revision History:**

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 17.05 – NMSU Athletics

arp.nmsu.edu/17-05

## PART 1: PURPOSE

The purpose of this rule is to implement the authority granted in the Regents Policy Manual (RPM) to establish and maintain an Athletics Department with responsibility for the operation of the various intercollegiate athletic programs authorized by the New Mexico State University Board of Regents (NMSU or Regents).

## PART 2: ATHLETIC DEPARTMENT MANAGEMENT AND OVERSIGHT

The chancellor will appoint a director of athletics to manage and direct the operations within the Athletics Department, and to provide oversight for all intercollegiate NCAA sanctioned sports programs at NMSU, subject to the polices and regulations of NMSU. The director will report to the chancellor and may be employed under a written contract or in an at-will status as provided by university policy and administrative rules.

## PART 3: MISSION

The mission of NMSU Department of Athletics is to support the vision of NMSU by offering an intercollegiate athletics program of local and national acclaim in an equitable and diverse environment that supports student-athlete excellence in academics and athletics, and that engages the university community and stakeholders in achieving and celebrating Aggies' success.

## PART 4: RESPONSIBILITIES

In order to implement RPM 17.00 and to achieve the mission set forth above, the Athletics Department is charged with the following responsibilities:

A. Maintain the integrity of all intercollegiate sports programs at NMSU and cooperate with the Athletics Compliance department to achieve full compliance with NCAA rules and regulations, as further articulated in ARP 17.30;
B. Establish programs to encourage and support high academic achievement by all student athletes;
C. Steward all resources available to the department including facility usage, preparation of an annual budget (under the supervision of the NMSU budget office), and proper fiscal management of all budgeted funds;
D. Support the Faculty Athletics Representative (FAR), as established by ARP 17.40 in the fulfillment of the FAR's responsibilities under the NCAA Guidelines, Conference Rules;
E. Support the Athletics Council, established under ARP 17.15, and advise the Athletics Director, the Faculty Athletics Representative and the Chancellor on all strategic decisions relating to athletics;
F. Give appropriate consideration to gender equity and Title IX compliance in all aspects of NMSU's sports programs, including consideration in the distribution of all resources and the acceptance of external gifts;
G. Establish ticket prices for intercollegiate athletic events and a plan for distribution of post-season tournament tickets;
H. Admit all NMSU students and affiliated students who have paid student fees to all intercollegiate ticketed athletic events on the NMSU campus in which NMSU athletes are competing, excluding tournaments;
I. Conduct fundraising activities in cooperation with the NMSU Foundation, Inc., including operating booster clubs;
J. Manage and monetize all multi-media rights for intercollegiate athletic events; and
K. Implement a marketing plan to promote NMSU athletics programs and events.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 17 | Intercollegiate Athletics

**Rule Administrator:** Director of Athletics

**Last Updated:** 05/08/2018

## Related

**Cross-Reference:**
Regents Policy 17.00, Athletics

**Revision History:**

05/08/18 Amendments approved by Chancellor
2017 Recompilation
03/15/17 Rule 2.05 et seq relocated to ARP Chapter 17, Rule 17.05 - 17.40
10/21/15 former Policy 2.05 et seq replicated by Board of Regents as initial Rule 2.05 et seq
03/14/11 Amendments to Policy 2.05 et seq approved by Board of Regents

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 17.15 – The Athletics Council

arp.nmsu.edu/17-15

## PART 1: CREATION AND PURPOSE

The Athletics Council was created to serve in an advisory capacity to the chancellor, the faculty athletics representative, and to the director of athletics.

## PART 2: COMPOSITION AND APPOINTMENT

The Athletics Council is composed of eleven voting members and two or more position appointments who shall serve on the council as *ex officio*, non-voting members. The voting membership is comprised of the following:

A. Six faculty members appointed by the dean from each undergraduate college at NMSU-Las Cruces, and not to serve more than two consecutive three-year terms;
B. Two students from ASNMSU, not to serve more than two consecutive one-year terms;
C. One staff member from the Employee Council; not to serve more than two consecutive two-year terms;
D. The faculty athletics representative to the NCAA and the Conference (See ARP 17.25); and
E. One Faculty Senate representative, not to serve more than two three-year terms.The *ex officio* membership is comprised of the director of athletics, the senior woman administrator and such other position appointments as may be designated by the director of athletics, with the concurrence of the chancellor.

## PART 3: PURPOSE

The Athletics Council shall perform the following functions, in addition to those as may be requested by the chancellor or the director of athletics:

A. Provide advisory guidance relative to the rules, regulations and administration of intercollegiate athletics;
B. Formulate and present to the Faculty Senate for its consideration recommendations regarding policies and programs as the Athletics Council deems appropriate;
C. Submit an annual report of its activities to the Office of the Chancellor, for posting on the university website (nmsu.edu) consistent with RPM 2.30; and
D. Provide advisory guidance relative to gender equity and Title IX compliance.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 17 | Intercollegiate Athletics

**Rule Administrator:** Director of Athletics

**Last Updated:** 05/08/2018

## Related

**Cross-Reference:**
**Revision History:**

05/08/18 Amendment approved by Chancellor
2017 Recompilation

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 17.20 – NCAA and Conference Participation and Compliance

arp.nmsu.edu/17-20

## PART 1: NCAA AND CONFERENCE REQUIREMENTS

As a member of NCAA, and its Conference(s), NMSU is committed to compliance with NCAA and Conference rules and regulations. Accordingly, NMSU accepts and adopts the following principles:

A. NMSU is responsible for conducting its intercollegiate athletic program in compliance with the rules and regulations of the NCAA;
B. NMSU's responsibility includes responsibility for the actions of its staff members and for the actions of any other individual, booster or organization engaged in activities promoting the athletic interests of the institution;
C. NMSU's responsibility includes monitoring its athletics programs to assure compliance and identifying and reporting to the NCAA any instances in which compliance has not been achieved; and
D. Any violation of NCAA rules may result in disciplinary and corrective actions as determined by the NCAA, as well as serious repercussions for the entire institution.

## PART 2: COMPLIANCE MONITORING DUTIES

A. Consistent with NCAA regulations and in order to fulfill the commitments set forth above, NMSU has established the Department of Athletic Compliance, independent from the Athletics Department, as a method of protecting the integrity of the compliance monitoring functions. The Athletics Compliance Department is authorized to administer all NCAA, Conference, and NMSU rules and regulations related to intercollegiate athletics.
B. While the Athletics Compliance Department has the primary responsibility for NMSU's athletic compliance program, each employee interacting with the Department of Athletics, coaching staff, and/or student-athletes is responsible for knowing and following NCAA regulations relating to those interactions, and for reporting any possible NCAA or Conference infractions to the Athletics Compliance department.

C. Any violation of NCAA or Conference rules and regulations will be taken seriously and will result in disciplinary action, in the case of employees and students, or other consequences, in the case of community boosters.

## PART 3: NCAA AND CONFERENCE LIAISONS

To manage the compliance function efficiently, certain NMSU officials and representatives have been designated and authorized to serve as liaisons to the NCAA or to the Conference. The authorized NMSU representatives include the Department of Athletics Compliance, the chancellor, the director of athletics, the faculty athletics representative, and the senior woman administrator. Only these individuals are authorized to contact the NCAA or Conference(s) for interpretation or clarification of the applicable rules and regulations. Coaches or other administrators who support compliance activities do not have authorization to make direct calls to the NCAA or to the Conference Office for this purpose.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 17 | Intercollegiate Athletics

**Rule Administrator:** Director of Athletics

**Last Updated:** 05/08/2018

## Related

**Cross-Reference:**
**Revision History:**

05/08/18 Amendment approved by Chancellor
2017 Recompilation

© 2017 New Mexico State University - Board of Regents

New Mexico State University

# 17.25 – Faculty Athletics Representative

arp.nmsu.edu/17-25

## PART 1: QUALIFICATIONS

The faculty athletics representative shall be a member of the institution's faculty or an administrator who holds faculty rank. The faculty athletics representative shall not hold an administrative nor coaching position in the Department of Athletics.

## PART 2: APPOINTMENT

The faculty athletics representative is appointed by the chancellor for an unspecified term, after consultation with the director of athletics and the outgoing faculty athletics representative. The faculty athletics representative reports directly to the chancellor.

## PART 3: DUTIES

The responsibilities of the faculty athletics representative are guided by the *NCAA Faculty Athletics Representative Handbook*, and may be tailored by NMSU, provided any such amendment is documented as part of the Department of Athletics' operations manual. **The faculty athletics representative duties at NMSU include, but are not limited to**:

A. Advising the chancellor and the director of athletics on all matters related to intercollegiate athletics;
B. Serving as the institutional representative to the NCAA and Conference;
C. Acting as a liaison between the Department of Athletics and other university stakeholders regarding rules interpretation, compliance, and policy;
D. Participating as a member of the Athletics Council;
E. Making appropriate inquiries of the NCAA or Conference staff regarding

interpretation of association and Conference rules;
F. Certifying the NCAA and Conference eligibility status of each student-athlete;
G. Assisting student-athletes in Conference-level hardship petitions;
H. Representing the university on compliance issues before appropriate NCAA and Conference committees;
I. Serving on any required committee charged with investigation of alleged violations and assist in recommending corrective action when violations are confirmed;
J. Providing oversight for the NCAA Coaches Certification testing program;
K. Performing such other duties as may be assigned through the Department of Athletics Operations Manual and approved by the chancellor.

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 17 | Intercollegiate Athletics

**Rule Administrator:** Director of Athletics

**Last Updated:** 05/08/2018

## Related

**Cross-Reference:**

**Revision History:**
05/08/2018 Amendment approved by Chancellor
2017 Recompilation

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 17.30 – Ticket Sales

arp.nmsu.edu/17-30

## PART 1: ESTABLISHING TICKET PRICES

Subject to the requirements below, the Department of Athletics is authorized to establish all ticket prices and conditions for purchase for all intercollegiate athletic events at NMSU.

## PART 2: FACULTY, STAFF AND RETIREE TICKETS

The Department of Athletics will provide football and basketball season tickets, in reserved sections, at a reduced rate to faculty, staff and retirees, subject to the following rules:

A. Each employee is eligible to purchase a maximum of six football and six men's basketball season tickets at the discounted rate;
B. Purchases of discounted tickets will be subject to any required donation requirement imposed on other purchasers;
C. The same privileges afforded to university employees shall be extended to official university retirees and their surviving spouses or domestic partners;
D. All employee and retiree tickets are for the use of the employee and retiree and their family only, and shall not be transferred;
E. Tickets are issued on a season by season basis;
F. Reduced price tickets for both employees and retirees are provided in accordance with federal and state tax laws which may result in additional taxation for the purchaser; and

## PART 3: STUDENT ADMISSION

Students who are not also regular employees of NMSU, and who are enrolled in at least one credit hour at NMSU-Las Cruces, or at an NMSU community college that has paid a negotiated fee for its students, and affiliated students for whom a negotiated fee has been paid on their behalf, will be admitted to intercollegiate athletic events on the NMSU campus

free of charge, with the exception of conference or NCAA tournaments. NMSU employees are not eligible for free admission even if also registered as students. Enrollment status may be verified though an electronic scan of each student ID.

## PART 4: POST-SEASON TOURNAMENT TICKETS

Demand for post-season tournament tickets often exceeds the number of tickets made available to NMSU. Accordingly, the Department of Athletics is responsible for developing and coordinating a plan for obtaining and selling the NMSU ticket allotment for the post-season tournament. NMSU is not obligated to provide a ticket allocation for any individual or group. All parties who are not served by a university allocation of tickets will be responsible for getting their own post-season tournament tickets from the host institution.

## PART 5: TICKET SCALPING PROHIBITED

Ticket scalping consists of selling, offering for sale or attempting to sell any ticket, privilege, license, admission or pass to any college athletic event at a price greater than the price charged at the place of admission or printed on the ticket. Ticket scalping relating to NMSU intercollegiate athletic events, and related to tickets procured by or through NMSU, is prohibited.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 17 | Intercollegiate Athletics

**Rule Administrator:** Director of Athletics

**Last Updated:** 05/08/2018

## Related

**Cross-Reference:**
Regents Policy 17.00, Athletics

**Revision History:**

05/08/18 Amendment approved by Chancellor
10/10/17 Amendment approved by Chancellor
2017 Recompilation
03/15/17 Rule 2.05.30 re-numbered as Rule 17.30
10/21/15 former Policy 2.05.30 replicated by Board of Regents as initial Rule 2.05.30
05/08/15 Amendment to Policy 2.05.30 approved by Board of Regents
10/15/12 Amendment to Policy 2.05.30 approved by Board of Regents
03/14/11 Amendment to Policy 2.05.30 approved by Board of Regents

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 17.35 – Booster Club Fund Raising

arp.nmsu.edu/17-35

The Aggie Athletic Club (AAC) serves as the official fund raising arm for the Department of Athletics. The Aggie Athletic Club provides oversight and acts as a resource to the individual booster clubs which engage in fund raising for specific athletic sport programs.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 17 | Intercollegiate Athletics

**Rule Administrator:** Director of Athletics

**Last Updated:** 05/08/2018

## Related

**Cross-Reference:**
**Revision History:**

05/08/18 Amendment approved by Chancellor
2017 Recompilation

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 17.40 – Media Rights Relating to NMSU Athletics

arp.nmsu.edu/17-40

## PART 1: RADIO AND TV BROADCASTS

The Department of Athletics holds all broadcast rights, including distribution of events, format, announcers, air times and advertising inventory on all radio and television events. Permission to broadcast is granted on a game-by-game or season basis through contracts issued by the Department of Athletics, the NCAA, or the Conference to which NMSU is a member. All television events produced by NMSU are done in cooperation with the Special Production Unit of KRWG and branded as AggieVision events.

## PART 2: CONTRACTS FOR MULTI-MEDIA RIGHTS

Subject to the approval of the chancellor, or designee, the Department of Athletics is authorized to enter into multi-media rights contract(s) which generate revenue for the department through the sale of various promotional, advertising and marketing opportunities related to NMSU's intercollegiate athletic events and athletic event venues.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 17 | Intercollegiate Athletics

**Rule Administrator:** Director of Athletics

**Last Updated:** 05/08/2018

## Related

**Cross-Reference:**
**Revision History:**

05/08/18 Amendment approved by Chancellor

2017 Recompilation

© 2017 New Mexico State University - Board of Regents

# Chapter 18 | Community and Governmental Relations

## Subsections in Chapter 18

- 18.05 – Honorary Degree Awards
- 18.10 – Namings
- 18.20 – University Advancement – Gift Income, NMSU Endowment, NMSU Foundation, Inc.
- 18.40 – Inspection of Public Records
- 18.45 – Lobbying
- 18.61 – Management of Events at the Pan American Center
- 18.81 – Tailgating Activities
- 18.82 – Picnics on NMSU Premises
- 18.85 – Interfaith Council
- 18.86 – Charitable Activities
- 18.87 – Aggie Cupboard
- 18.90 – Flags-National, State

Go to RPM

ARP Crosswalk

Search for:

Search ...

Search

## ARP Contents

Chapters 1 – 5

Chapters 6 – 10

Chapters 11 – 15

Chapter 16 – 18

Appendices

Filter by Rule Administrator

New Mexico State University
All About Discovery!

# 18.05 – Honorary Degree Awards

arp.nmsu.edu/18-05

## PART 1: INTRODUCTION

The Board of Regents of New Mexico State University is the entity authorized by law to confer the various type of degrees and certificates earned by the university's students. The Board of Regents also awards Honorary Degrees from time to time. Pursuant to the authority granted in RPM 18.00, this rule establishes the process for nomination, selection and award of the Honorary Degree recipients.

## PART 2: GUIDING PRINCIPLES

A. **Definition of Honorary Degree**: Honorary Degrees are ceremonial degrees approved by the Board of Regents to formally honor individuals whose accomplishments have brought honor or recognition to the university, or who have otherwise significantly contributed to New Mexico State University, including its community colleges, the local community, the state, or the nation. Honorary Degrees awarded by doctoral granting units will be designated as honorary doctoral degrees or may be undesignated. Honorary Degrees awarded by the community colleges will be undesignated.
B. **Notification to Nominee**: Honorary degrees must be approved by the Board of Regents prior to official notification to the selected nominee.
C. **Exclusion of Incumbents**: No current faculty, staff, student or official of NMSU, nor any currently serving elected official, should receive an Honorary Degree; however, with a unanimous vote of the Board of Regents, this restriction may be waived.
D. **Honorary Distinction**: To maintain prestige and distinction of the award, Honorary Degrees shall be limited in number.
E. **Presentation**: Honorary degrees are generally presented during commencement ceremonies, but may be presented at a special ceremony or at another appropriate time approved by the chancellor.

## PART 3: PROCEDURES FOR NOMINATION, REVIEW

## AND SELECTION

A. **Compliance with Guiding Principles**: The nomination and selection process must be conducted consistent with the guiding principles set forth above.
B. **Nomination**: A letter of nomination may be submitted by any interested party to the attention of the vice president of university advancement, with a copy to the chancellor. Nominations should include relevant supporting documentation. Other candidates may be identified by the chancellor, any regent or the vice president for advancement without formal nomination.
C. **Review**: The vice president for advancement will lead the process for review and recommendation, and will consult with an informal advisory committee consisting of the chancellor, at least one regent designated by the chair of the Board of Regents, and for an Honorary Degree to be awarded by one of the community colleges, the president of that community college. At the discretion of the vice president for advancement, additional members may be named to the advisory committee.
D. **Recommendation**: The chancellor together with the vice president for university advancement will recommend the nominees for this honor to the Board of Regents, and will specify whether the Honorary Degree is to be designated an Honorary Doctorate or undesignated.
E. **Approval**: Upon approval by the Board of Regents, the Honorary Degree may be awarded. Any certificate or documentation of the award should clearly indicate the honorary nature of the degree.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 18 | Community and Governmental Relations

**Rule Administrator:** VP Advancement

**Last Updated:** 11/14/2017

## Related

**Cross-Reference:**
**Revision History:**

*11/14/2017 Amendment approved by Chancellor [Renumbered in June 2017 ARP Recompilation (formerly Rule 6.75.B-G)] [Amendment approved by the Administrative Council 10.09.07; adoption of the amendment ratified by the Board of Regents 10.22.07] [Amendment (FS Proposition 09-11/12A) passed by the Faculty Senate 05.03.12; approved by the Board of Regents 06.21.12]*

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 18.10 – Namings

arp.nmsu.edu/18-10

## PART 1: INTRODUCTION AND SCOPE OF APPLICATION

This Rule is adopted pursuant to the authority granted by RPM 18.00 – Advancement. This Rule supersedes replicated **Rule 2.50** and its corresponding "NMSU Naming Policy Minimum Thresholds". This Rule shall apply in all situations in which a gift is given with the intention of creating any of the following:

A. Named Endowments (e.g. scholarships, lectureships, professorships, chairs);
B. Named Physical Entity (e.g. buildings, structures, interior spaces, landscapes, outdoor spaces, roads, etc.);
C. Named Academic Entities (e.g. programs, endowed funds, academic positions, scholarships, academic units (e.g. schools, colleges, departments, libraries, etc);
D. Named Collections (e.g. books, archives, art, museum, etc.);
E. An Honorific Naming; or
F. Other Recognitions (e.g. electronic book plates, donor walls, named awards etc.).

## PART 2: DEFINITIONS

A. **Academic Entities:** All non-physical entities, to include: colleges, schools, academic departments, academic centers, institutes, programs, public information presentations, laboratories, clinics, divisions, research centers, chairs, professorships, lectureships, fellowships, teaching awards and prizes.
B. **Collections:** Libraries or parts of libraries and other collections of significant size and scientific, historic, artistic, research or cultural value.
C. **Endowments:** An endowment is a fund that can be established through gifts from private individuals, corporations, foundations, associations, and other organizations.
D. **Honorific:** "Conferring or implying honor or respect; generally defined as recognizing outstanding individuals distinguished in character or attainments".
E. **Philanthropic:** The act of philanthropy; generally defined as gifts to the University that have real or in-kind monetary value.

F. **Physical Entities:** All physical facilities and buildings, including portions thereof. Examples include:
   1. Laboratories, classrooms, seminar rooms, meeting rooms, lounges, wings, halls, floors, galleries;
   2. Athletic fields, athletic facilities,
   3. Wings of buildings or substantial parts of buildings, residence halls, large auditoria, concert halls;
   4. Plazas, parks, fountains, gardens, lawns, courtyards, walkways, pathways;
   5. Natural landmarks;
   6. Parking facilities;
   7. Roadways

## PART 3: HONORIFIC NAMING

An honorific naming may be bestowed to those (e.g. person(s), organization, group, etc.) who have made exemplary or meritorious contributions to the University or society. The recognition afforded the honoree may also include private financial contributions related to the naming opportunity. Honorees shall not be currently employed within the NMSU System nor currently hold any appointed or elected office.

## PART 4: NAMING RIGHTS

Any naming may be disapproved by the Board of Regents or the Chancellor, as appropriate, as may be deemed to best serve the interests of the institution.

A. **Permanence of a Naming:** The naming of physical entities is intended to be in place for the life of the specific physical entity. Should circumstances change so that the purpose for which the physical entity was established is significantly altered or if the physical entity is no longer needed or habitable, the Chancellor and, if appropriate, the Board of Regents, in consultation with appropriate academic and/or administrative leadership and the donor(s), if possible, will determine an appropriate way to recognize the donor's naming gift in perpetuity. If the University and the donor(s) previously established a Gift Agreement or contract that provides a practicable course of action, then that action shall be followed.

B. **Removal of a Name:** NMSU System naming opportunities shall bear only the name of individuals or entities that exemplify the attributes of integrity, moral character, and leadership consistent with the mission of NMSU System. If, in the determination of the Chancellor and, if appropriate, the Board of Regents those attributes are not

maintained, the Chancellor and the Board of Regents reserve the right to remove the donor's/honoree's name from an entity at any time.

# PART 5: NAMING PROCEDURES

## A. Announcements

NMSU entities shall respect the privacy of involved parties and exercise discretion during the naming process, and under no circumstances shall an announcement about a potential naming be made prematurely and prior to the final approval required by this Rule.

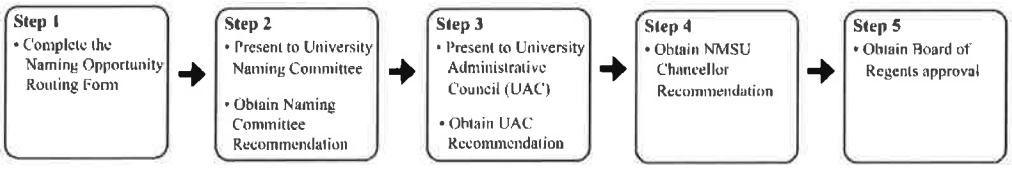
## B. Namings Committee

The NMSU Naming Committee is recognized as an advisory body which reviews and makes recommendations regarding proposed namings. The Naming Committee shall be chaired by the Vice President for University Advancement. The committee shall consist of the following members, or their authorized designee:

1. Executive Vice President and Provost;
2. Senior Vice President for Administration and Finance;
3. Vice President for University Advancement;
4. ASNMSU President;
5. Chair of the Faculty Senate;
6. Chair of the Employee Council;
7. Chair of the Campus Planning Committee; and
8. Academic Deans.

## C. Naming Proposal Approval Process

Naming and Recognition proposal submissions shall be considered by the Naming Committee only upon submission of a Naming Opportunity Approval Request Form. The approval of naming proposals will follow the procedural steps outlined in the flow chart below.




# PART 6: PROCEDURES FOR PLEDGES

The terms and conditions for namings which are funded as a total gift pledged to be paid over a period of time shall be clearly specified in writing in a formal Gift Agreement, which shall address the timing of the official naming and the consequences for not fulfilling the pledge. Generally, naming will occur after the pledge has been fulfilled and the total required amount has been received by NMSU Foundation, Inc. If the situation justifies an earlier official naming, there shall be a clear, documented understanding and agreement by the donor that the naming will be altered or removed if the pledge is not fulfilled within the agreed upon timeframe.

## PART 7: NAMING IN ANTICIPATION OF A PLANNED GIFT

A naming associated with a planned gift will be considered upon realization of the gift or upon receipt of a minimum of 50% of a cash gift. Any naming requested as a result of a planned gift must adhere to the requirements of this Rule, including but not limited to the provision of the requisite documentation.

## PART 8: ENDOWMENTS

### A. Endowments – General Provisions

The following applies to all endowments at NMSU:

1. Endowments are invested to allow for the principal to remain intact (nonexpendable) in perpetuity, while a portion of endowment earnings are distributed annually to support the purpose designated by the donor(s) through a formal gift agreement with the NMSU Foundation, Inc.
2. Endowments may be designated to benefit academic or non-academic positions, students, programs, physical spaces or specific academic or non-academic departments and units. They are typically named after their donor(s) or a person(s) the donor wishes to honor.
3. Endowments may be established by a one-time gift, a series of gifts, a pledge paid over a period of a specific number of years, wills, trusts, gifts of appreciated assets, or by a combination of these. Gifts can be added to an established endowment at any time.
4. In certain instances, which must be outlined in a gift agreement, a specific amount of the gift commitment must be received prior to the actual naming of the position, program, building, space, or project.

5. For endowments matched by the State of New Mexico, NMSU must adhere to applicable state law.
6. Certain terms are commonly used with endowments. The National Association of College and University Business Officers (NACUBO) uses the following definitions:
    a. **Permanent Endowment:** "Endowment funds are funds received from a donor with the restriction that the principal not be expendable." These endowments are only subject to modification as may be allowed by law and NMSU System policies.
    b. **Quasi-Endowment:** "A quasi-endowment fund is a fund that functions like an endowment fund but which may be totally expended at any time at the discretion of the governing board." This may be gift funds that the donor did not specifically direct for use as an endowment, or funds available to the institution from other sources that can be designated for an endowment. The funds are invested in the same manner as a true endowment and have the same payout provisions.

## B. Endowments – Minimum Thresholds

A naming opportunity funded through an endowment must be accompanied by a signed gift agreement and meet university guidelines on endowment minimums by type. The minimum thresholds for endowments, listed below, are set and amended by the NMSU Foundation.

1. **Endowed Faculty Chair**
    a. $1 million minimum threshold required.
    b. To recruit, retain and reward superior faculty members.
    c. To enhance the faculty member's scholarly efforts and/or research program.
    d. In such cases, the position, not the specific person, is supported by the endowment.
2. **Endowed Faculty Professorship**
    a. $250,000 minimum threshold required.
    b. To recruit, retain and reward outstanding faculty members.
    c. To enhance the faculty member's scholarly efforts and/or research program.
    d. In such cases, the position, not the specific person, is supported by the endowment.
3. **Endowed Graduate Fellowship**
    a. $32,000 minimum threshold required.
    b. To support a student working toward an advanced degree in any of the graduate fields.
    c. Academic merit and/or financial need may be a consideration.
    d. A donor may suggest other preferential criteria.
4. **Endowed Lectureship**
    a. $125,000 minimum threshold required.

b. To support expenses associated with planning and implementing a lecture or lecture series in specific areas/or on specific topics.

5. **Endowed Scholarship**
   a. $25,000 minimum threshold required.
   b. To support an undergraduate or graduate student.
   c. Academic merit and/or financial need may be a consideration.
   d. A donor may suggest other preferential criteria.
6. **Endowed Library Collections**
   a. $25,000 minimum threshold required.
   b. To purchase library materials.
   c. To support preservation of library collections in all formats.
   d. To support digitization or processing of collections.
   e. To support increasing access to collections.

## PART 9: PAYMENT TIME LIMITS

Donor(s) will have a maximum time limit of five (5) years from the date of execution of the gift agreement to meet the minimum funding level requirement. In the event of extenuating circumstances beyond the control of the donor, an exception may be granted at the discretion of the Vice President of Advancement.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 18 | Community and Governmental Relations

**Rule Administrator:** VP Advancement

**Last Updated:** 09/26/2017

## Related

**Cross-Reference:**
**Revision History:**

07.12.16 major revision rewriting rule recommended by University Administrative Council; 07.12.16 major revision approved by Chancellor. 10.21.15: BOR approved replication of Policy 2.50 as initial Rule 2.50 ***Prior Revision History as Policy 2.50:*** *12.13.11 Administrative Council recommended amendment; 01.30.12 Board of Regents approved amendment.*

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 18.20 – University Advancement – Gift Income, NMSU Endowment, NMSU Foundation, Inc.

arp.nmsu.edu/18-20

All gifts of money, securities, and other funds can be invested to the greatest advantage of the university if said gifts are made to the NMSU Foundation, Inc. for the sole use and benefit of the university. Therefore, to the fullest extent permitted by law and by any controlling documents, all gifts and donations to the university should be managed, invested, reinvested, and distributed by and through the NMSU Foundation. The Board of Regents recommends to all persons or corporations desiring to make gifts or donations for the benefit of the university and its respective campuses that such gifts or donations are made to NMSU Foundation, Inc. The return address furnished to donors and on all printed materials must be that of the NMSU Foundation, Inc., the Development Office, or the Office of the Vice President for University Advancement. All gifts received by the university, including gifts to any college, department or division, should be reported directly and immediately to the Office of the Vice President for University Advancement. Gifts in kind (noncash contributions) may be reported by memorandum or letter; gifts of cash or securities should be delivered promptly to the Development Office for receipting and deposit. The Office of the Vice President for University Advancement will be responsible for providing an official receipt to the donor, for appropriate acknowledgment, and for informing the appropriate campus personnel. However, departments awarding restricted gifts for student aid are entirely responsible for ensuring that all donor criteria, financial and otherwise, have been met. The board prefers that real estate and gifts-in-kind be given free of restrictions which would reduce the full range of educational benefits which could be realized from the gift. If restrictions are imposed upon the gift, or if the gift is such as to require costs of care, maintenance or upkeep, such gift must be first approved by the board or its designees before acceptance by the board. Gifts of real estate may be given through the NMSU Foundation, but are subject to the policies and the procedures of the NMSU Foundation.

## A. Gift Income Spending Rules

The university recognizes the importance of private gift income in providing its colleges and departments the flexibility needed to achieve its goals and objectives. The university also recognizes that different colleges and departments will have varying needs and priorities for

the use of the private gift income as they continue to develop and maintain quality programs. This rule is designed to provide those areas receiving private gifts the maximum amount of latitude to address these differing goals and objectives while at the same time maintaining the fiduciary responsibility inherent in the acceptance of these funds. Gift income received by the university from any external source, including the NMSU Foundation, will be expended in compliance with these rules and procedures. In all cases, exceptions may be made if these types of expenditures are sanctioned by the Offices of the President or Executive Vice President and Provost for college or university-wide functions. All expenditures must be for the enhancement or benefit of the university, in recognition of the university's official mission statement. In general, gift funds will be recorded in the current restricted fund, as they are externally restricted to purpose, even if internally unrestricted as to nature of expenditure. Only those gift funds which are received by the university for any related university purpose, without restriction of any type, are to be recorded in the current unrestricted fund. Within this rule, restricted fund income will be subdivided into restricted and unrestricted gifts based only on the level of donor specification attached to the gift, as explained below.

## B. Restricted Gift Income

For the purpose of this rule, restricted gift income is defined as all gift income on which the donor has placed specific restrictions beyond the general purpose for which the income is to be used. Thus, income designated for a specific college or department's general use will be classified as unrestricted gift income, as long as that college or department is given full authority to decide how the funds are to be best spent in compliance with the general guidelines detailed above. Any gift income which must be spent for a specific purpose, such as scholarships or travel reimbursement, or under any specific conditions, such as following a certain event or date, will be classified as restricted. All restricted gift income, if accepted and expended, will be expended according to the written restrictions of the donor, without exception. The Office of the Vice President for University Advancement will be responsible for accepting these restrictions before the gift is accepted on behalf of the university. Following this approval, the documented restrictions will take precedence over the guidelines for disbursement of funds outlined below.

## C. Unrestricted Gift Income

For the purpose of this rule, unrestricted gift income is defined as all gift income received by the university and not classified as restricted gift income. Expenditures allowable from this category of gift income will be limited by applicable laws, statutes, and regulations, and by

these administrative rules and procedures. It will be the responsibility of the Business Office to identify gifts as unrestricted, and to verify that donor's intent related to the department within the university in which the funds are to be spent is honored.

## D. Authorization Structure

The standard approval structure in place for expenditure of non-gift funds will be followed for gift funds. All non-payroll expenditures are to be approved by the department dead (where applicable), dean or director, and Office of the Senior Vice President for Administration and Finance. All expenditures involving a payment for services rendered by a university employee will be processed through the Office of Human Resource Services, following all existing authorization requirements for the given transaction. All requests for exception to these rules and procedures will be directed initially to the Office of the Senior Vice President for Administration and Finance.

## E. Cash Disbursement Controls

All existing university internal controls will apply to disbursements made from gift funds. All requests for expenditure will be submitted on the appropriate form; separate vouchers exist for requesting disbursements directly from the university and the NMSU Foundation. All vouchers will be accompanied by invoice or receipt support, or the attestation of the individual claiming reimbursement if other documentation is not applicable.

## F. Guidelines for Disbursements of Funds

All gift income funds will be used by or for the benefit of the university in fulfilling its mission of teaching, research, and public service, including expenses sanctioned for the improvement of employee morale. All types of expenditures falling under these guidelines will be allowable, with the following exceptions:

1. Any payment in conflict with existing law, statute, or regulation applicable to private gift funds
2. Charitable contributions made to entities or individuals external to the university. Where appropriate, expenses incurred by separate nonprofit organizations which could have legitimately been considered university expenses, such as those incurred by a separate student organization engaged in a university -related function, may be transferred with the approval of the Office of Senior Vice President for Administration and Finance to the university.

3. Any duplicate payment for goods and services, or reimbursement of employee expense. Duplicate payments include the reimbursement of actual travel expense to employees who have already received per diem payment through other sources.
4. Payment for university employee services outside the payroll system.
5. Gifts made to university personnel except as recognition of service to the university.
6. Loans to any individual, unless the gift was made for the specific purpose of establishing a loan fund.
7. Payment of fines imposed for violations of local, state, or federal law, unless resulting from university negligence.
8. Memberships in organizations, country clubs, or other expenditures for any individual, where it cannot be demonstrated that the expenditure is for the enhancement or benefit of the university.

## G. Endowment Trust

The Board of Regents approved the revocable Endowment Trust Agreement to cover the establishment of endowments, making it possible to take money that has been privately contributed to the NMSU Foundation for endowed chairs, professorships, or lectureships and match it with monies from the State of New Mexico. The monies may be placed together into a trust, managed by the NMSU Foundation in such a way that the NMSU Foundation retains title to the private money and the board retains title to the state money in a revocable trust. The board may designate a change in trustee at its discretion at any time or may dissolve the agreement if it desires. The assignment may allow the NMSU Foundation its usual management fee as trustee. It must, however, contain provisions (1) for termination of the placement of all or part of these endowments in the trust at any time at the board's sole discretion; (2) for annual accountings; and (3) for absolute authority on the part of the board for the disposition of each of the endowments (consistent with the terms of each particular endowment).

## H. NMSU Endowment Fund

This fund, managed by the NMSU Foundation, was established to enable faculty and friends to contribute to a permanent fund to strengthen the university's academic programs. Endowment funds are permanently invested and a portion of the annual earnings are made available to support the programs selected by donors as the beneficiaries. Earnings over and above the amount available for expenditure are added to the principal. Many contributions are received as memorials from those who wish to convey their sympathy upon the death of a relative, friend, or colleague. The university provides an official receipt for all gifts, and, when contributions are made in memoriam, informs the family that a

memorial gift has been made. Amounts of the contributions are not disclosed. Faculty and staff may contribute through the Foundation via payroll deduction arranged through the Office of Human Resource Services.

## I. NMSU Foundation, Inc.

The NMSU Foundation, Incorporated, is a private, nonprofit corporation whose only purpose is to accept and administer gifts in support of the university. The NMSU Foundation is a tax-exempt corporation, registered with the appropriate state and federal agencies. Contributions to the Foundation are exempt for federal income tax purposes. The NMSU Foundation works closely with the university. Its directors, who are committed to attracting private resources for the benefit of the university, serve without compensation. Contributions may be made for annual operating expenses or for the endowment.

## J. University-Affiliated Organizations

Numerous organizations have been established to support the Board of Regents in a variety of ways and are separate, not-for-profit entities. The focus of the following policy statement is on those organizations whose primary functions are to solicit, manage, and distribute funds and other assets that are given to these organizations for the support of the university in general or specific colleges or other program areas of the university. The university recognizes advantages of these organizations, such as:

1. Creating an opportunity for private individuals and organizations to invest in the enrichment of the programs with greater assurance that the benefits of their gifts supplement, not supplant, state appropriations to the institution.
2. Providing a corporate structure for managing private gifts, including endowments and income-producing real property, that does not jeopardize the university's tax-exempt status, create unnecessary unrelated business tax obligations, or create additional liabilities for the university.
3. Creating an effective forum for alumni and community leaders to participate in and contribute to strengthening the university through their participation in the solicitation, management, and distribution of private gifts and donations to the university.

(Other separate entities have been established for purposes unrelated to soliciting or managing gifts and donations on behalf of the university; i.e., the NMSU Research Park Corporation and Arrowhead Center, Inc., which engage in the commercialization of research productivity. However, these rules and procedures focus on those organizations created to actively engage in raising funds for the university.)

## K. Recognition

Any organization formed to represent the university or any college, department, or program area of the institution will receive approval by the university to represent it to prospective donors. A condition of any recognition of an organization will be that the organization agrees to conduct its business in concert with university policy, rules and procedures applicable to such organizations. A written agreement will be executed between the university and each organization, consistent with these policies but recognizing the specific significantly performing fund-raising functions until after the date of adoption of this rule (former policy adopted 10/90) will be established as an arm of the NMSU Foundation, unless otherwise approved by the Board of Regents upon the recommendation of the Chancellor (or designee).

## L. Statement of Purpose

The purpose of the organization will be clearly defined as being for the sole benefit of the university, or one or more of its specific programs. In order for the university to be able to support the organizations and not be in conflict with the state's anti-donation laws, the benefits to the university from the organization will be spelled out in the agreement.

## M. Structure of the Organization

Organizations may structure themselves in any manner they deem appropriate to fulfill their role and responsibilities to the university, with the following understandings:

1. The Articles of Incorporation and Bylaws and any amendments should have the approval of the university.
2. A regent, the Chancellor (or designee) may be included a s voting member of the governing board of the organization.
3. Unless specifically agreed otherwise by the university and the organization, the composition of the organization's governing board will be such as to assure continuation of the organization as an independent, legal entity separate from the university. Normally, more than 50 percent of the governing board membership of the organization must be non-university employees to assure continuation of the organization as an independent, legal entity separate from the university.
4. When an organization has a beneficial affiliation with an organizational unit, the university organizational unit should be expected to provide the staff support for the organization. No such organization will use funds received by the organization for the

benefit of the university to employ staff independently of the university. The university and the organization may agree to allocate some of the income the organization earns to the university for the specific purpose of supplementing institutional staff support. This provision does not preclude the affiliated organization from directly retaining professional services as is deemed necessary for the organization to fulfill its responsibilities to the donors and to the university, with the understanding that the retention of fund-raising and/or public relations consultants must be approved by the vice president for university advancement.

5. The affiliated organization's Articles of Incorporation and Bylaws should assure the retention of the organization's legal status as a tax-exempt non-profit organization pursuant to Section 501(c)(3) of the Internal Revenue Code, or any successor statute, if applicable.

## N. Solicitation of Gifts and Donations

Recognized affiliated organizations may organize and conduct fund-raising campaigns as they deem appropriate, except that major multi-year campaign solicitation of gifts and donations to support new academic programs or services, the major renovation of existing buildings, or the construction of new facilities may not be initiated without the prior approval of the NMSU system Chancellor. The initiation of any fund-raising campaign by any organization must be coordinated with the overall fund-raising activities of the Office of the Vice President for University Advancement to assure proper contact with potential donors. Each organization will, in concert with the Office of the Vice President for University Advancement, establish procedures for the review and acceptance of gifts and donations and for the coordination of solicitations and prospect contacts. The acceptance of any gift or donation that contains restrictions as to its use requires a matching fiscal obligation of the university, creates a future obligation of the university, or involves real property must be approved by the Chancellor (or designee). Although each organization would be expected to maintain records of gifts and donations received and to properly acknowledge such gifts, the university has designated the Office of the Vice President for University Advancement as the central record-keeping agency for all gifts and donations received on behalf of the university. The receipt of all gifts and donations must be reported to the Office of the Vice President for University Advancement. The Office of the Vice President for University Advancement is available to advise and/or assist any affiliated organization in designing and conducting fund-raising campaigns. No affiliated organizations will accept any funds intended for a university organizational unit which requires performance or service by the university. Income generated by a university program or service is revenue of the university and must be directly deposited into a university account.

## O. Management of Gifts and Donations

All gift monies, whether received directly by the university or indirectly through a university-affiliated organization, will be managed in accordance with investment policies approved by the Board of Regents. Affiliated organizations are encouraged to deposit their gift receipts with the university for the specific organization. Oversight of the funds deposited in these agency accounts is the responsibility of the organization. The university will provide all accounting services related to the funds for the organization. Short-term investment income earned by the university on funds in these accounts will be allocated to the accounts. Gifts received in the form of endowments by any recognized affiliated organization should be assigned to the NMSU Foundation, for investment management purposes. All endowments must be managed in accordance with investment policies approved by the board. The identity of individual endowments will be maintained by the NMSU Foundation; however, endowment funds may be co-invested in a pooled funds approach. Consolidation of the endowment investment management program provides the opportunity for cost-effective management of the endowments. Endowments retained by the organizations or transferred to the NMSU Foundation through revocable trust agreements will be maintained on the organization's books. Gifts received in the form of real property will be managed in accordance with the donor's request. If the donor specifies that the property be used by the university in its gift form, such as art work, library books, real estate, etc., the property will be transferred to the university. If the donor desires that the property be used to establish an endowment, or if the gift is real property or property interest, the gift will be assigned to the NMSU Foundation, for management purposes. The NMSU Foundation may retain the real property and use the income earned to accomplish the donor's gift objectives. If the donor permits, and it is a better investment management decision to dispose of the real property, the NMSU Foundation will use the proceeds from these sales to establish the endowment. The NMSU Foundation will obtain university approval before disposing of any real property. No individual member, director, or officer of an affiliated organization should accept any gift or gratuity that is offered because of the individual's position held with the organization.

## P. Distribution of Funds

Affiliated organizations will not disburse directly any funds in the form of compensation to a university employee without the express written approval of the Chancellor of the university and/or Board of Regents. Exceptions may be made for awards, recognition, etc. Any funds intended for employee compensation will be transferred to a university account and subsequently disbursed in accordance with university policies and procedures. The affiliated organizations will receive interest income earned on funds in agency bank accounts held by the university in the name of the organizations, and may use such income to cover

operating expenses directly incurred by the organizations. Organizations should establish policies for the review of any business transactions involving its members and the organization. Members, directors, and officers of the organization should disqualify themselves from making, participating in, or in any way attempting to use their position to influence decisions in which they have or would have a financial interest. Organizations will establish policies which preclude the use of any funds received or earned by the organization to support any political candidate. Organization funds will be accounted for in the university agency's fund, unless the university expressly approves the organization's separate accounting system. All separate systems will follow all university internal control policies where applicable.

## Q. Reports

Each affiliated organization maintaining a separate accounting system will report monthly to the Office of the Vice President for University Advancement the receipt of all gifts and donations and expenditures related to these funds. Each affiliated organization will provide monthly a summary of cultivation and solicitation activities. Organizations should prepare annual reports for the university and board that include standard financial statements required of non-profit organizations and any supplemental schedules requested by the university. The organization's auditor's opinion of these statements and schedules should be included in these annual reports, if applicable. Organizations should furnish to the university copies of all forms required to be filed by law, such as Form 990 and annual reports to the State Corporation Commission.

## R. Audits

Organizations shall provide the university with the results of annual financial audits performed by an independent auditing firm selected by the organization. Any independent audit firm selected by an organization that is not the same firm selected by the university must provide the necessary audit confirmations and assistance to the university's external auditor upon request. Organizations not required to provide an independent audit report should furnish to the university an annual financial report signed by the organization's president and treasurer. The Office of Audit Services staff may review all items approved by the organization's board for release to the university, with the understanding that such items and any reports related to them will fall under the organization's internal audit policy. This information will not become a part of the university's public records. The organization will not be used to provide any instructional, research, or public service activity sponsored or participated in by a university department or individual university employee in the name of university unless allowed by the university for specific purposes. Under no

circumstances should an affiliated organization offer an instructional program for university academic credit. Nothing herein is intended to make any affiliated organization subject to the New Mexico Open Meetings or Public Records Acts; nor is it intended to violate any confidentiality of donor information.

## S. Institutional Support

In recognition of the support and contributions that these university-affiliated organizations give to the university, the university may provide logistic support at no cost to these organizations, such as:

1. Space for meetings and other needs that an organization may have in the conduct of its business.
2. Staff support as described previously. In those regulations where university staff have a responsibility of significant support to the affiliated organization, the organization's officers should be consulted in selection and evaluation of such staff.
3. Use of university's financial accounting systems for their fiscal management needs.
4. Utilization of computer-based information management systems, such as donor record-keeping, etc.
5. Use of the Procurement Services Office's staff when assistance is required in arranging purchases. Under no circumstances will purchases be made for the organizations through the Procurement Services Office.
6. Recognized affiliated organizations will be given a non-exclusive license to use the name New Mexico State University and any other appropriate trademarks or trade names of the university in connection with their fund-raising activities. The university may, from time to time, deem it appropriate to provide financial support to an organization's major fund-raising campaign.

## T. Termination/Dissolution of Organizations

Upon termination of any agreement between the university and an affiliated organization, or upon the dissolution of any such organization, all assets held by the affiliated organization on behalf of the university shall become the property of the university, or such other affiliated organization as the university shall designate. This condition shall be included in the bylaws of any affiliated organization.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 18 | Community and Governmental Relations

**Rule Administrator:** VP Advancement

**Last Updated:** 09/26/2017

## Related

**Cross-Reference:**
**Revision History:**

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 18.40 – Inspection of Public Records

arp.nmsu.edu/18-40

## A. Purpose

To facilitate compliance with the New Mexico Inspection of Public Records Act (NMSA 1978, §14-2-1 et seq).

## B. Definitions

*See* the definitions contained within the NM Inspection of Public Records Act, NMSA 1978, § 14-2-6.

## C. Policy Statement

The designated custodians of public records shall respond to requests for inspection in a timely and professional manner, in compliance with the NM Inspection of Public Records Act (NMIPRA). If the Procedural Guidelines do not clearly identify a records custodian for a particular record sought, university general counsel is authorized to designate an appropriate university official to serve as records custodian for the request. Requests for inspection of university records will be considered and permitted consistent with the applicable law and the rights of the parties.

## D. Procedural Guidelines

With approval from the Chancellor, the policy administrator may issue and amend Procedural Guidelines, provided they are consistent with this policy and the NMIPRA. The Procedural Guidelines shall be posted on the appropriate website for NMSU System policies and procedures.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 18 | Community and Governmental Relations

**Rule Administrator:** General Counsel

**Last Updated:** 09/26/2017

## Related

**Cross-Reference:**
**Revision History:**

Amendment recommended by Administrative Council 09.13.11; approved by Board of Regents 10.10.11.

Amendment recommended by Administrative Council 11.08.11; approved by Board of Regents 12.09.11.

Amendment recommended by University Administrative Council 07.14.15; approved by Board of Regents 07.21.15.

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 18.45 – Lobbying

arp.nmsu.edu/18-45

A. In compliance with Section 310 of Public Law 101-121, it is the policy of the university that no *monies* shall be used directly or indirectly to influence any member of the federal legislative or executive branches unless in strict compliance with the exceptions of that public law and the regulations issued there under.
B. No employee of the university, agent of the university, or paid lobbyist shall contact any employee or officer of the federal, state, or local governments for the purpose of influencing that employee or officer without complying with this policy.
C. The vice president for research is directed to be the sole individual responsible for assuring the compliance with this policy. The vice president for research may designate one or more individuals to act in the absence of the vice president for research, in order to assure continuity.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 18 | Community and Governmental Relations

**Rule Administrator:** VP Research

**Last Updated:** 09/26/2017

## Related

**Cross-Reference:**
**Revision History:**

© 2017 New Mexico State University - Board of Regents

# 18.61 – Management of Events at the Pan American Center

arp.nmsu.edu/18-61

A. The director of special events is responsible for management, operation and supervision of events conducted in the Pan American Center (also referred to as “the Pan Am”).
B. The Pan American Center is designed to accommodate athletic events, concert and theatrical presentations, public assemblies, commercial events, conventions and other special events open to the general public.
C. All requests to use the Pan Am facility or any portion thereof, including equipment and furnishings, must be directed to the Office of Special Events. The director of Special Events will process each request in accordance with university policies and rules for facility use, rentals and security.

## Details

**Scope:** NMSU System

**Source:** ARP Chapter 18 | Community and Governmental Relations

**Rule Administrator:** Director Special Events

**Last Updated:** 02/18/2019

## Related

**Cross-Reference:**

**Revision History:**

02/18/2019 Amendment approved by Chancellor
Recompiled 2017, formerly 9.50.10
10/21/2015 former Policy 9.50.10 replicated by Board of Regents as initial Rule 9.50.10

---

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 18.81 – Tailgating Activities

arp.nmsu.edu/18-81

## PART 1: PURPOSE AND DEFINITION OF TAILGATE STATION

A. This rule identifies the officials authorized to review and approve tailgating activities, including the issuance of supplemental tailgating regulations. This rule is promulgated for the safety and welfare of the university community and the public during tailgating activities, which are designed to promote Aggie spirit and community engagement.
B. As an exception to RPM 16.60, Responsible Alcohol Use, pre-approval or a permit will not be required of participants who consume alcohol within an authorized Tailgate Station before or after an NMSU sporting event, provided participants are compliant with this rule and supplemental regulations, as well with requirements imposed by the host or sponsor of the Tailgate Station, if any.
C. For purposes of this policy, a “tailgate station” is defined as a gathering of fewer than 200 people, assigned to particular parking spaces assigned in accordance with the tailgating regulations.

## PART 2: LARGE GROUPS SUBJECT TO RPM 16.60

When attendance at a tailgating activity is reasonably expected to attracted 200 or more individuals, it will not qualify for this exception, and sponsors or hosts must comply with the university’s policies, rules and procedures applicable to special events. Special events require a Special Dispenser’s License, as required by state law. See RPM 16.60, Responsible Use of Alcohol. Sponsors or hosts or a tailgate station approved to host a large group in accordance with RPM 16.60 may still use the term “tailgate” in promotional activities. *For an Application and Instructions, please contact the chair of the Alcohol Review Committee at 575-646-5752.*

## PART 3: DESIGNATION OF OFFICIALS IN CHARGE; AUTHORIZATION OF TAILGATING REGULATIONS

A. The NMSU athletics director, the assistant vice president for facilities, the director of special events, and the NMSU chief of police will be collectively referred to as the officials in charge.
B. The officials in charge are authorized to decide, by unanimous consent, the dates, times and locations in which the limited consumption of alcohol will be permitted during authorized tailgating activities. The supplemental regulations will detail the permitted tailgating activities. The regulations may be updated and amended periodically. The officials in charge may also address other issues, not relating to the consumption of alcohol, in the tailgating regulations, for the maintenance of safety and order during tailgating activities.
C. The officials in charge and their designees will administer and enforce university policies and rules, including the supplemental regulations. In recognition of the fact that it is not possible to anticipate every possible scenario that might occur, the officials in charge are delegated the authority to exercise their discretion in the action they take, consistent with the policies, rule and regulations. The officials in charge may utilize NMSU employees and/or authorize volunteers to provide additional assistance as lot monitors in each tailgate lot/area designated for the consumption of alcohol.

## PART 5: NOTICE TO PUBLIC

The tailgating regulations, including a map reflecting the areas authorized for tailgating activities and/or for the consumption of alcohol, will be made available to the public via link above from this rule (See Cross References above in Details Section), as well as may be linked from appropriate departmental websites (e.g. NMSU Athletics; Facilities & Services). *See* **www.nmsupolice.com/tailgating**

## PART 6: SAFETY PRECAUTIONS RELATING TO ALCOHOL

In addition to RPM 16.60, Responsible Alcohol Use; ARP 16.60 – Permitted Alcohol on NMSU Premises, and the supplemental tailgating regulations adopted by the officials in charge, the following safety precautions specifically apply to tailgating activities.

A. Glass containers shall not be used for the activities allowed by this section. Persons with glass container(s) in locations designated for tailgating will be asked to leave with the container or to discard the glass container(s). Other administrative or criminal action may also be taken, as appropriate under the

circumstances (e.g. criminal citation for Minor in Possession, disciplinary action under the NMSU Student Social Code of Conduct).

B. Alcoholic beverages must not be taken into the Aggie Memorial Stadium, the Fulton Center, the Pan American Center, the Corbett Center Student Union, Presley Askew Field Baseball Complex, the softball complex, or any other location where an alcohol license is active. For purposes of this section, the listed athletic facilities include the seating areas, concessions, restrooms, concourses, locker rooms, practice fields/gyms/areas, press box and all other space within the bleachers and fields inside the fence or structure requiring admission by ticket holding patrons. Private parties may be arranged within these facilities when done in accordance with RPM16.60, and they are not considered tailgating.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 18 | Community and Governmental Relations

**Rule Administrator:** NMSU Police Chief

**Last Updated:** 08/17/2018

## Related

**Cross-Reference:**
**ARP 16.60 – Permitted Alcohol on NMSU Premises**

**RPM 16.60 – Alcohol at NMSU Including Sanctioned Events**

**Tailgating Regulations**

**Revision History:**

08/17/2018 Amendment approved by Chancellor
2017 Recompilation, formerly 3.05 H.
01/30/2012 Amendment approved by the Board of Regents
07/20/2010 Amendment approved by Board of Regents
09/08/2006 Amendment ratified by Board of Regents
10/11/2005 Amendment approved by Administrative Council

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 18.82 – Picnics on NMSU Premises

arp.nmsu.edu/18-82

Group picnicking is allowed if scheduled through Conference Services.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 18 | Community and Governmental Relations

**Rule Administrator:** Director Auxiliary Operations

**Last Updated:** 09/26/2017

## Related

**Cross-Reference:**
**Revision History:**

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 18.85 – Interfaith Council

arp.nmsu.edu/18-85

Various religious denominations, representing many faiths and doctrines, are engaged in campus ministries and other religious activities near the university. The Board of Regents and the university are completely impartial and give no preference to any religious denomination or organization, and no religious denomination or organization is an official part of the university and has no right, by using the name New Mexico State University, or by using a reproduction of the Seal of New Mexico State university, or by any other means, to give the impression that it is an official part of the university or that its activities are an official part of the program or curriculum of the university. Although not an official part of the university the Interfaith Council (IC) is a coalition of over 14 religious groups ministering to the spiritual needs of the students, faculty, and staff. Collectively and individually they provide fellowship, recreation, worship, service projects, retreats, conferences, and speakers for student groups.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 18 | Community and Governmental Relations

**Rule Administrator:** Chancellor

**Last Updated:** 10/20/2017

## Related

**Cross-Reference:**
**Revision History:**

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 18.86 – Charitable Activities

arp.nmsu.edu/18-86

NMSU is subject to the anti-donation clause in the New Mexico Constitution which prohibits state governmental entities from donating or providing support to any private entity, including charitable organizations. Charitable activities which are organized and undertaken by chartered student or employee organizations, and which do not require the use of public funds or resources, and do not impose a material cost on NMSU, do not violate the law and are permitted, but not endorsed by NMSU. Supervisors are not permitted to ask their subordinates to support charitable activities.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 18 | Community and Governmental Relations

**Rule Administrator:** VP Advancement

**Last Updated:** 10/10/2017

## Related

**Cross-Reference:**
**Revision History:**

11/19/2018 Renumbered, formerly 14.93
10/10/2017 Rule adopted by Chancellor

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 18.87 – Aggie Cupboard

arp.nmsu.edu/18-87

Aggie Cupboard, a program operated under the oversight of NMSU Health and Wellness Center, seeks to provide food and essential hygiene supplies at no cost to students and employees within the NMSU system. Aggie Cupboard supports the mission of NMSU by providing essential support by reducing food insecurity and thereby promoting the success and productivity of students and employees. Aggie Cupboard is not a private entity, and activities by the various NMSU departments to obtain donations or provide other support for the Aggie Cupboard are permitted, provided that the activity is approved at the Dean or Assistant Vice President administrative level, and complies with all other NMSU policies and rules. All monetary donations from private individuals or entities should be directed to the NMSU Foundation, Inc., with a notation that the donation is for the support of Aggie Cupboard.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 18 | Community and Governmental Relations

**Rule Administrator:** Executive Director Health and Wellness

**Last Updated:** 11/14/2017

## Related

**Cross-Reference:**
**Revision History:**

11/19/2018 Renumbered, formerly 14.94
11/14/2017 Rule adopted by Chancellor

© 2017 New Mexico State University - Board of Regents

New Mexico State University
All About Discovery!

# 18.90 – Flags-National, State

arp.nmsu.edu/18-90

The national flag will be flown at half-staff on the deaths of those prescribed in the National Flag Code or on special request from Washington. (Typically the flags are lowered from the date of a death through the date of funeral services.) The state flag will be flown at half-staff on the occasion of the death of any of the following: regent, past regent, president, past president, vice president, dean, and others as decided by the administration.

## Details

**Scope:** NMSU System
**Source:** ARP Chapter 18 | Community and Governmental Relations

**Rule Administrator:** AVP Facilities and Services

**Last Updated:** 09/26/2017

## Related

**Cross-Reference:**
**Revision History:**

© 2017 New Mexico State University - Board of Regents

# Appendices

## List of Appendices

- Appendix – ARP 2.15-A – Academic Units (Procedures for Changes)
- Appendix – ARP 4.81-A – Las Cruces Campus Approval Sequence for Curricular Credentials
- Appendix – ARP 4.81-B – Community College Approval Sequence For Curricular Credentials
- Appendix – ARP 5.10-A – Examples of Academic Misconduct
- Appendix – ARP 5.11-A – Procedures for Resolving Alleged Student Academic Misconduct
- Appendix – ARP 5.11-B – Academic Misconduct Report Form
- Appendix – ARP 10.50-A – Flowchart of Procedures for Faculty Alleged Misconduct, Investigation, Discipline and Appeals Processes
- Appendix – ARP 12.71-A – ALCC Facility Utilization and Scheduling Guidelines

Go to RPM

ARP Crosswalk

Search for:

Search ...

Search

## ARP Contents

Chapters 1 – 5

Chapters 6 – 10

Chapters 11 – 15

Chapter 16 – 18

Appendices

- Appendix – ARP 12.71-B – DACC Facility Utilization and Scheduling Guidelines
- Appendix – ARP 16.03-A – Security Camera Proposal and Justification Form
- Appendix – ARP 16.03-B – Security Camera Training and Acknowledgment Form
- Appendix – ARP 16.03-C – Access Log of Security Camera Records

## Details

**Scope:** NMSU System

**Source:** ARP Administrative Rules and Procedures

**Rule Administrator:**
**Last Updated:** 11/02/2017

## Related

**Cross-Reference:**

**Revision History:**

Filter by Rule Administrator

Select

Submit

# ARP Maintenance

The Administrative Rules and Procedures (ARP) is maintained by University General Counsel.

Inquiries should be directed to gencounsel@nmsu.edu

ARP History

## Policy Maintenance

The Administrative Rules and Procedures of NMSU Manual is maintained by University General Counsel. Inquiries should be

## Proposals Under Review

Proposals for new and revised rules are available to NMSU stakeholders on the UGC SharePoint site.

## Related Sites

University General Counsel

Regents Policy Manual

Business Procedures Manual

Other University Regulations

## 2.15-A Academic Units (Procedures for Changes) *(See Rule 2.15 fka 6.05)*

**APPROVAL PROCESS FOR ACADEMIC PROGRAM CHANGES**

# 4.81-A Las Cruces Campus Approval Sequence for Curricular Credentials *(See Rule 4.81 fka 6.82)*

## Las Cruces Campus

This chart outlines the approval sequence for various Las Cruces Campus credentials

**New Programs**

| Approval Body | Associate and Baccalaureate Degree | Masters Degree | Doctoral Degree | Associate and Baccalaureate Major | Graduate Major | Supplemental Major | Undergraduate Minor | Graduate Minor | Concentration | Graduate Certificate |
|---|---|---|---|---|---|---|---|---|---|---|
| Departmental Faculty | X | X | X | X | X | X | X | X | X | X |
| Department Head | X | X | X | X | X | X | X | X | X | X |
| College Curriculum Committee | X | X | X | X | X | X | | | | X |
| Academic Dean | X | X | X | X | X | X | X | X | X | X |
| Graduate Dean | | X | X | | X | | | X | X (grad only) | X |
| Associate Deans Academic Council | X | X | X | X | X | X | X | X | X | X |
| Academic Deans Council | X | X | X | X | X | X | | | X | |
| Faculty Senate | X | X | X | X | X | X | | | | X |
| Provost | X | X | X | X | X | X | | | | X |
| President | X | X | X | X | X | X | | | | |
| Board of Regents | X | X | X | X | X | X | | | | |
| NM Council of Graduate Deans | | X | X | | X | | | | | X* |
| Academic Council for Higher Education | | X | X | | X | | | | | |
| NM Higher Education Dept. | X | X | X | X | X | | | | | X |
| NM State Board of Finance | | X | X | | X | | | | | X* |
| Higher Learning Commission | X | X | X | X | X | | | | | X |
| | | | | | | | | | | |

**Curriculum Changes**

| Approval Body | Associate and Baccalaureate Degree | Masters Degree | Doctoral Degree | Associate and Baccalaureate Major | Graduate Major | Supplemental Major | Undergraduate Minor | Graduate Minor | Concentration | Graduate Certificate |
|---|---|---|---|---|---|---|---|---|---|---|
| Departmental Faculty | X | X | X | X | X | X | X | X | X | X |
| Department Head | X | X | X | X | X | X | X | X | X | X |
| College Curriculum Committee | | | | | | X | | | | |
| Academic Dean | X | X | X | X | X | X | X | X | X | X |
| Graduate Dean | | X | X | | X | | | X | X (grad only) | X |
| Associate Deans Academic Council | | | | | | | X | X | X | X |
| Academic Deans Council | | | | | | | | | X | |
| Faculty Senate | | | | | | | | | | |
| Provost | X | X | X | X | X | X | | | | |
| NM Higher Education Dept. | if needed | if needed | if needed | if needed | if needed | if needed | | if needed | if needed | if needed |
| Higher Learning Commission | if needed | if needed | if needed | if needed | if needed | if needed | | if needed | if needed | if needed |

* if additional resources are needed

## 4.81-B Community College Approval Sequence for Curricular Credentials

### Community College Campuses

This chart outlines the approval sequence for various community college credentials.

**New Programs**

| Approval Body | Applied Associate Degree | Associate Degree/ Major | Certificate | Concentration |
|---|---|---|---|---|
| CC Department Faculty | ■[2] | ■[2] | ■[2] | ■[2] |
| CC Department Head | ■ | ■ | ■ | ■ |
| CC College Curriculum Committee | ■ | ■ | ■ | ■ |
| CC Academic Dean or Division Head | ■ | ■ | ■ | ■ |
| CC Academic VP | ■ | ■ | ■ | ■ |
| CC President | ■ | ■ | ■ | ■ |
| CC System Academic Committee (CCAVP) | ■ | ■ | ■ | ■ |
| Associate Deans Academic Council (ADAC)[1] | ■ | ■ | | |
| NMSU Faculty Senate (Consent Agenda) | | ■ | | |
| NM Higher Education Dept. (NMHED) | ■ | ■ | ■ | |
| Higher Learning Commission (HLC) | ■ | ■ | ■ | |

**Curriculum Changes**

| Approval Body | Applied Associate Degree | Associate Degree/ Major | Certificate | Concentration |
|---|---|---|---|---|
| CC Department Faculty | ■[2] | ■[2] | ■[2] | ■[2] |
| CC Department Head | ■ | ■ | ■ | ■ |
| CC College Curriculum Committee | ■ | ■ | ■ | ■ |
| CC Academic Dean or Division Head | ■ | ■ | ■ | ■ |
| CC Academic VP | ■ | ■ | ■ | ■ |
| CC President | | | | |
| CC System Academic Committee (CCAVP) | ■ | ■ | ■ | ■ |
| Associate Deans Academic Council (ADAC)[1] | | | | |
| NMSU Faculty Senate (Consent Agenda) | | | | |
| NM Higher Education Dept. (NMHED) | ■[3] | ■[3] | ■[3] | |
| Higher Learning Commission (HLC) | ■[3] | ■[3] | ■[3] | |

1. Informational
2. Depending on campus approval structure. On some campuses, the College Curriculum Committee represents the faculty.
3. If needed.

# Examples of Academic Misconduct

This list serves as a guide to students, faculty, and administrators for use in determining whether a particular action or attempted action would be considered a breach of academic integrity. This list is for illustrative purposes and is not exhaustive.

**Cheating**

- Copying or attempting to copy from others during an exam or on an assignment.
- Communicating answers with another person during an exam.
- Preprogramming a calculator to contain answers or other unauthorized information for exams.
- Using an electronic device (cell phone, camera) to capture, transmit or receive information during an examination when such usage is prohibited by course or instructor policy.
- Using unauthorized materials (prepared answers, written notes, or concealed information) during an exam.
- Allowing others to do an assignment or portion of an assignment for you, including the use of a commercial term-paper service.
- Submission of the same assignment for more than one course without prior approval of all the instructors involved.
- Collaborating on an exam or assignment with any other person without prior approval from the instructor.
- Taking an exam for another person or having someone take an exam for you.
- Creating multiple accounts for an online homework system (one to get the answers, the second one to enter the answer and receive credit)

**Plagiarism**

Plagiarism is defined as use of intellectual material produced by another person without acknowledging its source, for example:

- Wholesale copying of passages from works of others into your homework, essay, term paper, or dissertation without acknowledgment.
- Use of the views, opinions, or insights of another without acknowledgment.
- Paraphrasing of another person's characteristic or original phraseology, metaphor, or other literary device without acknowledgment.

**Course Materials**

- Removing, defacing, or deliberately keeping from other student's library materials that are on reserve for specific courses.
- Contaminating laboratory samples or altering indicators during a practical exam, such as moving a pin in a dissection specimen for an anatomy course.

- Selling, distributing, website posting, or publishing course lecture notes, handouts, readers, recordings, or other information provided by an instructor, or using them for any commercial purpose without the express permission of the instructor.

**False Information and Representation, Fabrication or Alteration of Information**

- Furnishing false information in the context of an academic assignment.
- Failing to identify oneself honestly in the context of an academic obligation.
- Fabricating or altering information or data and presenting it as legitimate.
- Providing false or misleading information to an instructor or any other University official.

**Theft or Damage of Intellectual Property**

- Sabotaging or stealing another person's assignment, book, paper, notes, experiment, project, electronic hardware or software.
- Improper access to, or electronically interfering with, the property of another person or the University via computer or other means.
- Obtaining a copy of an exam or assignment prior to its approved release by the instructor.

**Alteration of University Documents**

- Forgery of an instructor's signature on a letter of recommendation or any other document.
- Submitting an altered transcript of grades to or from another institution or employer.
- Putting your name on another person's exam or assignment.
- Altering a previously graded exam or assignment for purposes of a grade appeal or of gaining points in a re-grading process.

*Appendix ARP 5.11-A Procedures for Resolving Alleged Student Academic Misconduct* *(Effective Aug. 13, 2018)*

*days are business days

**ACADEMIC MISCONDUCT ALLEGED**: Within 5 days* of learning of possible course level or university level misconduct, ***[ARP 5.10 Part 4. D.; 5.11 Part 2. D.]***, the Academic Integrity (AI) Investigator completes Academic Misconduct Report Form (Form) and transmits to Academic Conduct Officer (ACO). ***[ARP 5.11 Part 2. C.]***

↓

**NOTICE TO STUDENT BY ACO:** Unless an exception applies (ARP 5.11 Part 2 E.), within 5 days* of receipt of Form, the ACO notifies student of allegation and imminent investigation ***[ARP 5.11, Part 2 E.]***

↓

**FOLLOW THE FACTS:** The ACO consults with General Counsel to determine appropriate process as the ACO is advising AI. ***[ARP 5.11 Part 2. D.]*** The AI Investigator conducts fact finding investigation, with guidance as needed from ACO. ***[ARP 5.11 Part 3.]***

*See* ARP 5.15 for Degree Revocation or Expulsion; ARP 11.03 - Addressing Allegations of Misconduct in Research

↓

**POST- INVESTIGATION THROUGH THE INFORMAL MEETING:** AI Investigator and ACO confer.

- AI Investigator and ACO agree there is not Clear and Convincing Evidence to support a finding of an AI violation: Matter is closed. Student is notified; and any Level I Sanction (if already imposed) is reversed. ***[ARP 5.11 Part 4. C.]*** **OR**
- AI Investigator and ACO agree Clear and Convincing Evidence supports a finding of an AI violation and jointly agree on appropriate sanction. ACO notifies student. Level I Sanction may be imposed. Level II Sanction cannot be imposed until after all steps in hearing and appeals process complete. ***[ARP 5.11 Part 4. D. - G.]*** If the student accepts findings and sanction: Matter is closed.
- If AI Investigator and ACO don't reach consensus on findings or sanction, they confer with appropriate dean(s) for direction before proceeding. ***[ARP 5.11 Part 4 B.]***
- If student contests findings or sanction, or does not attend the Informal Meeting after it is noticed, the ACO sets the matter for hearing with a Hearing Panel - finds out parties' availability dates for hearing before they leave Informal Meeting.

→ **CASE CLOSED**

→ **CASE CLOSED**

↓

**PRE-HEARING COORDINATION**

- ACO sends Notice of Hearing within 5 days* after Informal Meeting and convenes Hearing Panel to hear case within 20 days* after Informal Meeting. ***[ARP 5.11 Part 6 A. and B.]***
- Parties exchange evidence packets and witness lists no later than 5 days* prior to hearing and provide copy to ACO who distributes to Hearing Panel members. ***[ARP 5.11 Part 6 C.]***

↓

**PARTIES PRESENT TO 3 MEMBER HEARING PANEL**

- Hearing Panel hears evidence presented by the parties and decides whether or not there is Clear and Convincing Evidence supporting a finding of academic misconduct. ***[ARP 5.11 Part 6. E. - H.]***
- The Hearing Panel's decision must be issued within 10 days* after the hearing.
- For Level I sanctions, the Hearing Panel's Decision is final. *[ARP 5.11 Part 6 I.]*
- For Level II sanctions, the Hearing Panel's decision must advise the parties of right to seek a final review (based on the hearing record) from the EVP/Provost or designee. ***[ARP 5.11 Part J.]***

→ **CASE CLOSED**

↓

**STUDENT REQUESTS FINAL REVIEW OF MATTER INVOLVING LEVEL II SANCTION**

- Within 5 days* after receipt of Hearing Panel's decision, parties may submit a Request for Final Review to the Office of the EVP/Provost, copy to ACO and other party. ***[ARP 5.11 Part 6. J. and Part 7. A.]***
- ACO has 10 days* to assemble the hearing record and deliver to EVP/Provost. ***[ARP 5.11 Part 7 B.]***
- EVP/Provost or designee reviews record and issues decision upholding, modifying or reversing the Hearing Panel's decision w/i 20 days* after receipt of hearing record. ***[ARP 5.11 Part 7. C.]***
- Final Decision is sent to parties, and copied to ACO, who has additional reporting obligations.

→ **CASE CLOSED**

↓

**AFTER HEARING AND FINAL REVIEW (IF ANY) IS COMPLETE:**

1. Level II sanctions are imposed.
2. Suspensions and dismissals may be deferred to end of semester at discretion of EVP/Provost.
3. Pending the student's completion of the sanction, NMSU may administratively prohibit student's registration, continuing participation in studies or Student Life activities.
4. ACO reports final outcome to dean(s), registrar for update to educational records and Dean of Students for NMSU reporting obligations.

Live, Learn and Thrive.

# Academic Misconduct Report Form

**Academic Integrity (AI) Investigator** *(Printed Name)*_____ **Dept.** _____

**AI Investigator E-mail Address** _____ **Phone**_____

**Course No. / Title** *(if applicable)* _____ **Date** _____

**Student's Name** *(Print)*: _____ **Student Banner ID**_____

**Graduate Student** _____ **Undergraduate Student** _____

**Description of Alleged Misconduct** *(attach addendum as needed)* _____

**Summary of Findings** *(attach addendum as needed* _____

**AI Investigator/ACO Decision about Level of Sanction to be Imposed or Proposed** *[which may be in consultation with Dean(s)]:* **Level I Sanction** _____ **Level II Sanction** _____

*The AI Investigator and involved student are to initial below on the lines accurately reflecting the disposition of the Informal Meeting, and then sign at the bottom of the form. The Academic Conduct Officer (ACO) serves the role as a neutral informational resource regarding process for both parties, and will facilitate the accurate completion of this form, as well as sign at the bottom of the form.*

***INITIALS:***

_____ _____ The student has been notified of the findings, supporting evidence and **Level I Sanction** to be imposed.

_____ _____ The student accepts responsibility for the findings and the **Level I Sanction** and does not request a hearing to contest the matter.

_____ _____ The student contests the findings or the **Level I Sanction being imposed** and requests a hearing. The Level I Sanction will ___ will not____ be imposed pending the hearing and decision by Hearing Panel.

_____ _____ The student has been notified about the findings, supporting evidence and proposed **Level II Sanction**.

_____ _____ The student accepts responsibility for the findings and the **Level II Sanction** and does not request a hearing to contest the matter.

_____ _____ The student contests the findings or the proposed **Level II Sanction** and requests a hearing. *[Note: Absent a basis for an interim suspension, A Level II Sanction is not to be imposed pending the hearing and decision by Hearing Panel and any subsequent request for final review.]*

_____ _____ The parties have discussed the evidence in support of the findings and mutually agree to modify the findings or the sanction as follows *(attach addendum as needed):*

***ACO completes: The student has requested a hearing ☐ The student has not requested a hearing ☐***

**By their signatures below, the parties and the Academic Conduct Officer hereby confirm that the above is an accurate description of what transpired during the Informal Meeting.**

| | | |
|---|---|---|
| AI Investigator Name Printed | AI Investigator Signature | Date |
| Student Name Printed | Student Signature | Date |
| ACO Name Printed | ACO Signature | Date |

***ACO DOCUMENTS FOR EACH CASE:***

*Date ACO received notice of allegation From the AI Investigator:* _____

*Date notice of alleged breach of AI and investigation given to student:* _____ *and explanation, if notice delayed based on exception (attach addendum as needed):* _____

*Date notice sent to student that complaint failed to allege AI violation or evidence did not support finding of AI violation (with offer to meet, at the student's discretion):* _____

*Date of Informal Meeting:* _____

*Date of Hearing with Hearing Panel:* _____

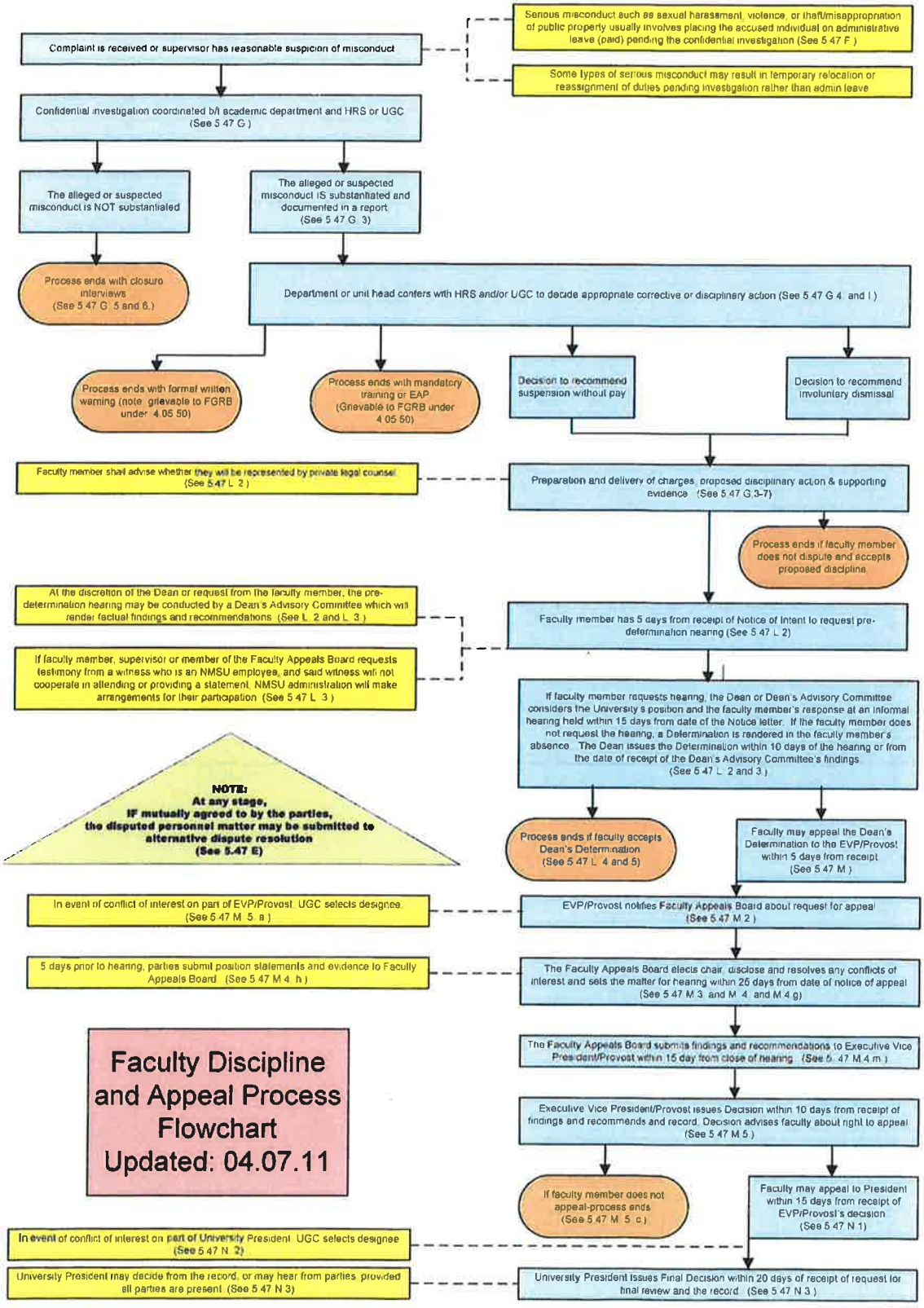
*Date Request for Final Review Received:* _____

*Date Hearing Record Assembled for Final Review and Delivered to Office of EVP/Provost:* _____

*Date of EVP/Provost Final Decision:* _____

*Final Outcome (attach addendum as needed):* _____

# 10.50-A Flowchart of Procedures for Faculty Alleged Misconduct, Investigation, Discipline and Appeals Processes *( See Rule 10.50 fka 5.47)*



# 12.71 – Academic Facility Utilization and Scheduling
# Appendix A – Alamogordo Campus

## Part 3: Scheduling Guidelines

### A. Classroom Scheduling Priorities

First priority for scheduling classrooms is given to credit-bearing courses. Class meeting times must be scheduled using standard time blocks as defined in section *B*. Classrooms are assigned to best match room capacity with class enrollment. Second priority for room scheduling is given to events and non-credit courses.

### B. Standard Time Blocks

To ensure ease of access for students who are having to build a schedule of classes with the least amount of conflict, and efficient utilization of classroom space on all days of the week, standard time blocks have been established. Classes should start on a standard time block. Request for non-standard class start times must be approved by the Division Head and Vice President for Academic Affairs (VPAA). Standard time blocks are determined by the Office of Academic Affairs. Classes that have not been assigned a classroom are listed as TBA in the Schedule of Classes until a classroom and time can be assigned. All class schedule information is entered into the Student Information System to reflect accurate course, faculty and space related information.

### C. Course Capacities

When scheduling classes, accurate course capacities should be included. Inaccurate course capacities negatively impacts space utilization analytics and skews predictive scheduling analytics. Course capacity should be a function of instructional design and pedagogy, and should rarely be set at zero (0) or at a specific room size. No instructor or Division may allow the occupancy of a classroom to exceed the limit specified by fire safety codes. The classroom capacity is fixed in the Student Information System and Scheduling Software System. It is the responsibility of the Division and the instructor to ensure that actual attendance does not exceed classroom capacity.

### D. Room and Time Changes

Division Head and VPAA approvals are required for any day and time change requests after students have begun to register for the term the class is being offered.

### E. Class Cancellations

Classes are cancelled in the Student Information System by the Office of Academic Affairs. When classes are cancelled, an automated email is sent the next day notifying the student of the cancellation. Lists of affected students are sent to the Divisions and to Student Services.

### F. Final Examinations

Final written examinations, not to exceed two hours duration, are given only at the times and days established and published by the Office of Academic Affairs. Final examinations are generally held in the same room as class meetings. Changes in classroom location must be arranged through the Office of Academic Affairs. Examination times and days are noted on the Campus web page.

### G. Specialized Classroom Needs

Needs for a specialized facility, such as laboratory demonstrations and unique media needs, are considered and accommodated whenever possible. Media-equipped classrooms are

assigned on a space available basis. Departments needing a specific classroom should indicate these needs in the “Notes” section of the schedule proofs.

**H. Maintenance and Development of Classroom Technology in Instructional Space**

Classroom space is maintained by the Facilities Department. Technology (computers, audio visual, etc.) in instructional spaces is maintained by Information Technology Services (ITS).

**I. Accommodation/Accessibility (American with Disabilities Act Compliance)**

Arrangements can be made for the change of an academic classroom due to documented accommodation and/or accessibility issues. Changes of this nature should be handled by the Accessibility Services office, the Division Head, and the Office of Academic Affairs.

**J. Use of Classroom Space for Non-Class Event Purposes**

The Office of Academic Affairs will schedule classroom space for events. However, class meetings always have priority.

**K. Construction/Renovation**

During periods of construction/renovation or in the event of an emergency, the Campus President or the Vice President for Academic Affairs may authorize exceptions to scheduling policies.

**L. Conflict Resolution**

Scheduling conflicts will be resolved by the Office of Academic Affairs in consultation with the course Division Head. Space utilization and pedagogical issues will be considered in any conflict resolution.

# DACC APPENDIX: SCHEDULING GUIDELINES

---

A. **Centrally Scheduled Classroom Priority:**
    1. First priority for scheduling centrally assigned space is given to courses. Class meeting times must be scheduled using standard time blocks as defined in section B, below. Classrooms are assigned to best match room priorities and capacity. Course capacity should be a function of instructional design and pedagogy and should rarely be set at zero (0) or a particular room size.
    2. Second priority for scheduling centrally assigned space is given to adult education and events, after all courses and related instructional activities have been scheduled in any given academic term.

B. **Standard Time Blocks:**
To ensure ease of access for students who are having to build a schedule of classes with the least amount of conflict, and efficient utilization of classroom space on all days of the week, standard time blocks have been established. Regular-session class meetings with standard time patterns are scheduled before class meetings with non-standard time patterns. All classes are scheduled into the requested classrooms unless it is a specialized lab or causes a conflict with the class that has priority. If a class does not occur during the standard time block it will be given second priority in the classroom and moved if a conflict occurs with those classes scheduled within the standard time block. Classes that have not been assigned a classroom are published in the Schedule of Classes with a TBA announcement until a classroom and time can be assigned. All class schedule information is entered into the student information system to capture and reflect accurate course, faculty, and space related information.

C. **Minimum Class Size**: The target enrollment for lecture sections is 15 with a minimum enrollment of 12. Minimum enrollment in labs is set by safety standards. Program directors or department chairs will provide any information regarding such standards to their deans. Minimum enrollment in clinicals is set by safety and/or accreditation standards. Program directors or department chairs will provide any information regarding such standards to their deans. In an effort to serve more rural locations, exceptions may be granted at the satellite locations. At Gadsden, target enrollment in lecture sections is 12; minimum enrollment is 10. At Chaparral and Sunland Park target enrollment is 10, and minimum enrollment is 8. In an effort to serve students who take courses outside of the typical work day/week, exceptions may be granted for weekend and evening classes. Target enrollment is 12 and minimum enrollment is 8. For any other exceptions, see DACC's Framework for Cancelling Classes with Low Enrollment.

D. **Prime Time**: Prime time is Monday through Friday from 8:30 a.m. to 2:30 p.m. Classes with non-standard patterns are to be scheduled either starting or ending on the standard block schedule. The sections will be assigned room space in the requested classroom or specialized lab. Classes using a one-day-only pattern and meeting for more than standard duration (e.g., three hour seminars) should be scheduled outside of prime time.

E. **Scheduling Priority**:
    1. Classes scheduled within standard meeting times and the block schedule will receive first priority in classroom scheduling. Classes scheduled outside of the

standard meeting times will be assigned classroom space after those classes scheduled during standard times. Where an academic unit has departmental space assignment priority, that unit will be given preferential scheduling within those spaces.

2. Initial classroom assignments are made based on department or program priority. Classes requiring specialized labs/classrooms will be assigned to the appropriate room based on departmental classroom requests. Classes with lower enrollments will be placed in smaller classrooms with equivalent media if necessary. Classes scheduled after scheduling deadlines have passed are assigned classrooms on a space-available basis.

F. **Course Capacities**: When scheduling course meetings, it is expected that accurate course capacities be included. Inaccurate course capacities negatively impacts space utilization analytics and skew predictive scheduling analytics. Course capacity should be a function of instructional design and pedagogy and should rarely be set at zero (0) or a particular room size. No instructor or department may allow the occupancy of a classroom to exceed the limit specified by fire safety codes. The classroom capacity is fixed in the student information system and scheduling software system. It is the responsibility of the department and the instructor to ensure that actual attendance does not exceed classroom capacity.

G. **Room and Time Changes**: Day and time changes should be made prior to students registering for classes. Room changes are accommodated when there is another room available. However, departments/instructors should NOT continue to add students in the expectation that a larger room will be available.

H. **Class Cancellations**: If a class is cancelled, the Associate Vice President's office (AVPAA) must be notified so the class can be cancelled in the student information system. It is the responsibility of the academic unit to notify enrolled students when a class has been cancelled.

I. **Instructor Assignments**: When scheduling class meetings, instructor names must be entered in the student information system using the instructor's Aggie ID number. This ensures that the instructor's name will appear in the online *Schedule of Classes,* in other electronic applications such as online grading, and in faculty workload reports.

J. **Final Examinations**: Final written examinations, not to exceed two hours duration, are given only at the times and places established and published by the Office of University Student Records. Final examinations are generally held in the same room as class meetings. However, by prior arrangement with the AVPAA's office, common final examinations can be scheduled and extra room locations may be booked on a space available basis. Changes in classroom location must be arranged through the AVPAA's office. Examination codes, times, and locations are provided by the University Student Records Office and in the Student Information System. The approved final exam schedule will be posted on the DACC website in the schedule location once it has been made official by the Office of University Student Records.

K. **Specialized Classroom Needs**: Needs for a specialized facility, such as laboratory demonstrations and unique media needs, are considered and accommodated whenever possible. Media-equipped (SMART) classrooms are assigned on a space available basis. Departments needing a specific classroom should indicate these needs in the

"Notes" section of the schedule proofs. However, standard time block and prime-time designation should be observed, whenever possible.

L. **Central Use of Departmentally Scheduled Rooms**: Under prior agreement with the program director or department Chair, departmental rooms may be scheduled by the AVPAA's office.
M. **Maintenance and Development of Classroom Technology in Instructional Space**: All classrooms are maintained by DACC facilities and computer support.
N. **Accommodation/Accessibility (American with Disabilities Act Compliance)**: Arrangements can be made for the change of an academic classroom due to documented accommodation and/or accessibility issues. Changes of this nature should be handled by the AVPAA's office.
O. **Use of Centrally Assigned Space for Non-Class Event Purposes**: The AVPAA's office will schedule centrally assigned space for events. However, class meetings always have priority. These requests are generally not processed until semester schedule has been finalized for each term and are subject to change if space is needed for instructional purposes.
P. **Construction / Renovation**: During periods of construction/renovation or in the event of an emergency, the AVPAA's office may authorize exceptions to scheduling policies and require the use of departmentally assigned rooms to meet class needs.
Q. **Change of the purpose of Classrooms**: All classrooms are centrally assigned space by the AVPAA's office, unless authorized by the DACC President's office for the exclusive use by a specific department or program or to change the designation of a classroom.
R. **Conflict Resolution**: In the event of conflicts, priority is given to class meetings which demonstrate the highest seat utilization based on current projections and census date enrollment for the last three terms the course was taught. Scheduling conflicts will be resolved by the AVPAA's office in consultation with the course program director or department chair. Space utilization and pedagogical issues are factors that influence decisions.

## 16.03-A **Security Camera Proposal and Justification Form** *(See Rule 16.03 fka 2.69)*

The purpose of this form is to document the need of a security camera and justify the business need and consideration of ongoing costs and ensure compliance with Rule 2.64 - Security Cameras on University Premises.

Submit this form to: securitycamera@nmsu.edu
Submitted Date: _____
Department: _____ Dept. Contact: _____
College/Branch: _____

Describe the business purpose, justification and location of security camera(s) – (Provide all relating detail):

_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____

Who will be responsible for coordination of Security Camera(s) – (Security Camera Coordinator)?

_____
_____
_____

Funding:

- Funding source or sources for purchase of security camera(s) and installation costs:

  Index _____ Fund _____ Account _____
- Funding source or sources for ongoing maintenance:

  Index _____ Fund _____ Account _____

Approvals:

Dean or Vice President:

Print Name _____

Signature _____

Security Camera Review Committee:

Yes _____ No _____

## 16.03-B **Security Camera Training and Acknowledgment Form** *(See Rule 16.03 fka 2.69)*

This Form is intended to define the responsibilities of those employees handling surveillance devices and related information, which are considered NMSU records that could contain sensitive or confidential information about students, employees, donors or other individuals, and to record his or her recognition and acceptance of that responsibility.

New Mexico State University maintains the confidentiality and security of records in compliance with the Family Educational Rights and Privacy Act of 1974 (FERPA), the Health Insurance Portability and Accountability Act (HIPAA) and the Gramm-Leach-Bliley Act (GLBA), in addition to other federal and state laws. These laws pertain to the security and privacy of personal academic, medical and financial information, along with identifying information such as social security numbers, names and photographs (surveillance recordings could reveal/contain identifying information).

Within NMSU, employees are authorized access to university records only to the extent necessary to perform their official university duties, and are responsible for protecting such information against unauthorized access or disclosure.

Employee: Recognizing this responsibility, I agree to the following (please initial each line):

_____I will access university records only as required to perform my assigned duties.

_____I will store information under secure conditions and make every effort to ensure individual's privacy.

_____I will not divulge, copy, release, sell, loan, review, alter or destroy records except as properly authorized by the appropriate university official within the scope of applicable state or federal laws, record retention schedules and internal policies.

_____I will forward all requests for information via an open records request to the university's general counsel for guidance. I will not release information covered by these requests until instructed to by university's general counsel or my supervisor.

_____I will not release information about students, staff or employees that was requested on the basis of non-public information (for example – recordings, verbal talk, etc.)

_____I have read the NMSU Security Camera Rules and Procedures and agree to comply with its provisions.

I understand that failure to comply may result in disciplinary action, including termination of employment.

Employee Printed Name _____

Employee Signature: _____Date :_____

## 16.03-C **Access Log of Security Camera Records** *(See Rule 16.03 fka 2.69)*

The purpose of this form is to provide an example of a log that should be maintained for all accesses to or use of security camera records and to ensure compliance with Rule 2.64 - Security Cameras on University Premises.

| No. | Rec. Date | Name | Purpose |
|---|---|---|---|
| 1. | | | |
| 2. | | | |
| 3. | | | |
| 4. | | | |
| 5. | | | |