

Chapter 3

Codes of Conduct, Permissible Activities

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CHAPTER 3 - CODES OF CONDUCT, PERMISSIBLE ACTIVITIES

3.05 Alcohol Policy [*Adopted by Administrative Council 10/11/05; ratified by Board of Regents 9/8/06*]

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. These are concepts basic to all American freedoms.

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 Alcohol 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 New Mexico State University. Off-campus events conducted by university approved organizations are bound by this policy.

NMSU recognizes it cannot protect its staff and students from making decisions that could potentially cause harm to themselves or others. NMSU disclaims any intention to assume duties to protect its staff and students from their own abuse of drugs or alcohol or to protect third party persons from conduct of the staff or students.

Permissible Use of Alcohol

Where permitted under the 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 permitted 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 as permitted by law and in areas designated by the director of Housing and Residential Life. Refer to the housing policy for those areas designated as "alcohol free".
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 president or designee by event type. The president or designee has authorization, at their discretion, to grant permission for 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. Events occurring on campus involving alcohol must obtain the proper approval/permit. The following shall apply:
 - a. Any event involving alcohol must be registered and approved by the university in order to obtain a proper permit.

- 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 they will be issued a permit for their event.
- 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 permits are obtained and applicable policies are adhered to.
- d. Permits will be issued by the president or designee.
- e. State law requires that anyone serving alcohol must complete a class and receive a server's permit.

Unacceptable Use of Alcohol

NMSU discourages the use of alcohol that is inconsistent with local, state and federal laws and university policy. 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. Staff and/or students will be disciplined if their use of alcohol 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 intended for consumption is permitted for the sole purpose of prompt delivery to a designated, approved location.
5. Open containers of alcohol are prohibited outside of designated areas.
6. Kegs, party balls or common containers are not permitted, unless in conjunction with an event approved by the president or designee.

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 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 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 Student Code of Conduct. The university reserves the right to impose sanctions upon students and student organizations that violate this policy and/or the Student Code of Conduct, even if such actions occurs off-campus.

Consequences for Violations

1. Students found to be in violation of any of these policies through Student Judicial Services will be subject to disciplinary action ranging from Disciplinary Probation in conjunction with educational sanctioning through Expulsion from the university

2. Students in violation may also be subject to the disciplinary procedures of Housing and Residential Life, if applicable.
3. Staff or students found to be in violation will also be subject to all local, state and federal laws and nothing in this policy shall be construed to protect staff 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 Student Judicial Services and/or Housing and Residential Life, if applicable.
4. Staff 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 staff member or student refrains from further alcohol misuse and/or abuse.

Tailgating

On days on which an NMSU football game is scheduled at Aggie Memorial Stadium, consumption of alcohol in designated areas is authorized, subject to the restrictions of this policy.

1. Tailgating will be limited to four hours prior to kick-off and two hours after the game ends. (Exceptions to the start /end times of tailgating may be granted based on scheduled kick-off time.)
2. Persons under the age of 21 are prohibited from drinking alcohol in accordance with state and federal laws and university policy.
3. Glass containers are not permitted.
4. Disruptive behavior, disorderly conduct, public drunkenness and similar types of behavior will not be tolerated.
5. Kegs, party balls or common containers of any kind are not permitted.
6. No alcoholic beverages may be brought into the Aggie Memorial Stadium.
7. For those of legal age, the quantity of alcohol beverages one can bring to the tailgate section is limited to the amount one person can reasonably consume.
8. Tailgating activities are allowed in parking lots located within the boundaries of Locust St East to Triviz- University Ave. South to Wells St. including lot 96 but excluding lots 38, 82, 83, 84, 85 and 89.

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 and the Alcohol Review Committee.

This alcohol policy shall apply to all NMSU campuses (main and community colleges) that have applied for and received a waiver from their respective county jurisdictions.

3.10 Campus Access (Prohibited, Restricted) [edited from AP&P 211-213, reference BR 98-100]

Restrictive Access Policy: In order to establish an appropriate environment and preserve university property for educational purposes, the university reserves the right to restrict access to some of its

lands and facilities. Academic spaces are generally used for educational purposes only, and buildings which serve as residences for students are restricted to students, their guests, and appropriate university employees. While some other university facilities and grounds are available to the general public, activities must be scheduled and authorized, and facilities/grounds must be used according to university rules and regulations. No individual(s), except for those contracted to reside on campus, shall temporarily or permanently remain overnight on the property of the Board of Regents, or dwell on the property of the Board, including but not limited to, in motor vehicles, or in temporary or permanent structures, without the specific prior approval of the vice president for student success (or designee). Members of the campus community, as well as visitors, are expected to behave in ways that do not interfere with the rights of others to pursue an education and/or do not disrupt community living on campus. Behaviors of any individuals that interfere with, disrupt, impair, or obstruct the processes, procedures, or functions of the university are prohibited.

Failure to comply with this policy could subject the individual to warning, probation, removal from the campus, arrest, barring from the campus, or any other sanctions applicable under the Student Code of Conduct, university personnel policies, or state or federal laws. Actions taken under this policy will be initiated by the appropriate dean or vice president (or designee). Contested administrative actions may be appealed in writing to the executive vice president and provost within 3 working days after receipt of the decision made by the appropriate dean or vice president. The decision of the executive vice president and provost is final.

Prohibited Access Policy: The following individuals may be prohibited from entering upon land or buildings owned or used by the Board, its colleges, departments, community colleges, experiment stations, ranches, and all property owned or occupied by agencies supervised by the Board:

- Persons charged with criminal acts against the Board or students or employees during the pendency of such criminal charges.
- Persons found guilty by a court of competent jurisdiction of criminal acts against the Board or students or employees.
- Any individual whose presence on the campus constitutes a clear and present danger to the persons, property, or peace of the Board, or students, employees, or agents (contractors).
- Any individual whose presence on campus, given all attendant circumstances, could reasonably cause injury against the persons or property of the Board or students or employees.
- Any student ordered withdrawn under the Medical/Psychiatric Withdrawal Policy (available in the Office of the Vice President for Student Success).

In order to be prohibited from use of university lands and buildings, individuals must be notified in writing of the prohibition by the vice president for student success (or designee). Notice may be made personally or by certified mail. Individuals so notified shall be immediately barred subject to the right to request a hearing within 3 days of the service of the notification or within 6 days of the date of mailing the certified letter. Extension of time will be given to the next business day for any day that occurs on a weekend or a holiday as established by the university. Appeals shall be made by giving written notice to the Office of the Executive Vice President and Provost of intent to appeal. Hearing on the appeal shall be within 7 days from the receipt of the notice of appeal. Neither the individual prohibited nor the university shall be represented at the hearing by legal counsel.

The hearing need not conform to the strict rules of legal evidence. In the event that the executive vice president and provost reverses the prohibition, the individual shall be immediately entitled to enter upon university land or property. In the event that the executive vice president and provost affirms the decision, the individual's prohibition shall continue. The decision of the executive vice president and provost is final. Under most circumstances, prohibitions under this policy will be for one year or less. When the prohibition is indefinite, the affected individual may petition for the removal of the prohibition after one calendar year by submitting a written request to the vice president for student success. With respect to individuals convicted of criminal acts against the university, its students, or

employees, the one year shall commence at the time the individual is released from incarceration resulting from the conviction. Any violation of such prohibition may result in legal action by the Board against the individual, including such criminal charges as may be appropriate under the circumstances, including criminal trespass.

Vacating University Buildings or Property: The university recognizes the importance of providing a venue where members of the community can freely and openly express their ideas. However, if an individual(s) and/or organization improperly or illegally occupies university buildings or property, the following statement will be read:

“You are violating university regulations and/or state laws concerning improper occupation of buildings or property. If you leave within the next 10 minutes, no further action will be taken. If you do not leave within 10 minutes, you may be arrested. If you are a student, you may also be subject to disciplinary action as outlined in the Student Code of Conduct.”

In the event a crime (other than the peaceful but illegal occupation of a building or property) has occurred, is occurring, or is about to occur, action may be taken without regard to the above statement by the appropriate university officials in order to protect the safety, lives, and property of the university community. (See Chapter 2 Miscellaneous General Operating Policies - Emergencies)

3.15 Children in the Workplace [edited from AP&P 232] (See Chapter 4 Human Resources – General – Children, Employment of)

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.

1. Children visiting campus must be closely supervised by an adult at all times.
2. Children will be prohibited from entering dangerous settings such as labs and equipment rooms without the approval of the appropriate dean or administrative supervisor.
3. 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.
4. 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.
5. 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.

3.19 Conflict of Interest – Ethical Conduct

3.19.10 General Statement

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.

3.19.20 Principles of Ethical Conduct:

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

3.19.30 Addressing Concerns Relating to Ethical Conduct

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 president). Confidentiality about individuals reporting violations of these standards will be maintained whenever possible and employees shall be free from retaliation for voicing concerns.

3.20 Conflicts of Interest and Conflicts of Commitment in General (See 3.75 Personal Use (of University Resources), 3.92 Sales and Solicitation, 4.50 Outside Employment and/or Activities, 4.60 Public Affairs Participation, 5.30 Faculty Consulting, 7.05 Educational Opportunities for Employees and Their Families, and 8.25 Professional Staff Consulting)

3.20.10 Principles

Both individual members of the university and entities controlled by the university have a vital need to recognize and deal with 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 section 30.20.50 of this policy). 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 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).

3.20.15 Procedures and Remedies in Cases of Conflicts of Interest and/or Commitment

It is the responsibility of all persons covered by this policy 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 Section 3.21.26 of this policy, are applicable to conflicts arising from Sponsored Activities but are based upon the annual disclosure requirement.

Procedure

Each person covered by this policy shall be required to complete, sign and submit a Conflict of Interest Disclosure form upon hire at the university and on an annual basis. Completed forms will be approved by the applicable dean or other responsible university official after being signed by the individual's department head or director. Maintenance of the form is the responsibility of the Office of Human Resource Services.

Paths towards remedies

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.

The first question that determines disposition of conflicts of interest and/or commitment is whether or not the conflict arises from a sponsored activity. The treatment of conflicts in non-Sponsored Activities will follow normal personnel procedures as outlined in section 4.05 and 4.25 of the Policy Manual, drawing informally on the advice of the Committee on Conflicts of Interest in Sponsored

Activities as desired. Resolution of conflicts arising from Sponsored Activities shall be governed by the procedures set forth in section 3.21.27 of this policy. 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. 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. 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 sections 4.05 and 4.25.

3.20.20 Definition of Terms

The definitions and example 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.

3.20.22 Member of the University Community

Members of the university community includes regents, employees (administrators, faculty, staff, student employees) and others acting on behalf of the university (including those acting on behalf of university controlled entities such as the University Foundation).

3.20.23 Relationships

For purposes of this policy, the term "relationships" shall mean and include the following; "family", as defined in the University Policy Manual, i.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.

Close personal friends

Business partners and corporate professional associates

3.20.24 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 policy and the disclosure requirements set forth herein, the term "investigator" includes the investigator's family members.

3.20.25 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.

3.20.26 Significant Financial Interest

Significant financial interest means anything of monetary value owned or payable to a faculty of staff members, 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.

3.20.27 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. In this context, the term member of the university community also includes that member's family members, close personal friends and business partners and corporate professional associates, as listed in section 3.20.23.

Examples of conflicts of interest may include but are not limited to:

- 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.

- A faculty or staff member having a significant financial interest in a concern that is in direct competition with the interests of NMSU.
- 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.
- 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.
- 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.

Permitted Activities:

Examples of permitted activities may include but are not limited to:

- Serving as Principal Investigator or Co-Investigator on a multi-institutional project where NMSU is a participating member.
- Permitting access to NMSU resources as part of licensing agreements or as part of statutory permitted activities.

3.20.28 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.

Examples of conflicts of commitment may include but are not limited to:

- Maintaining full-time paid employment at another institution/organization that interferes with work performance and/or attendance. (See section 4.50 on outside employment)
- 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.
- Taking on a significant management role in a non-NMSU entity as part of consulting activities.
- Holding an elective political office.

Permitted Activities:

Examples of permitted activities may include but are not limited to:

- 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 sections 5.30 and 8.25).
- 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.
- Acting as an editor or reviewer for a professional society journal.
- Preparing chapters, textbooks or monographs related to teaching, research or service activities, even if paid royalties as an author or editor.
- Occasional lectures, colloquia or seminars to disseminate results of university-related teaching, research or service activities.
- Holding an office in a professional society.

3.20.30 Policies for Specific Situations

3.20.32 Nepotism [transferred from PM 4.45]

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.

3.20.33 Faculty or Staff as Students

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.

3.20.34 Relatives and Significant Others as Students

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 colleges 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 section 3.22). Supervisors of faculty need to adopt the same procedure to manage situations in which the faculty they supervise teach members of the supervisors' family.

3.20.35 Participation in Committees

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:

- 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.
- 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.
- Serving on the promotion and tenure committee when a family member is applying for promotion or tenure.
- Serving on the graduate committee for a family member of a close professional associate.

3.20.36 Requests Made to Subordinates

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.

3.20.37 Sales and Solicitations

Personal Financial Gain: Sales and solicitations by individuals or organizations on university property that result in personal financial gain are expressly prohibited except as noted in Section 3.92 of the Policy Manual.

3.20.38 Procurement

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 Business Procedures Manual.

3.21 Conflicts of Interest and Commitment in Sponsored Activities

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, Graduate Studies and International Programs. The principles, definitions and policy statements set forth above in Sections 3.19 and 3.20 apply also to this section 3.21. Specific guidance on conflicts of interest in Sponsored Activities is set forth below.

3.21.20 Conflict Situations in Sponsored Activities

3.21.21 Conflicts in Sponsored Activities 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:

- Engaging for sponsored research a business firm in which the investigator or family member involved in the research project has a significant financial interest.
- 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.
- 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.

- 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.
- 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.
- Sponsorship of research by a business firm in which an investigator involved in the research has a significant financial interest.
- 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.
- 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.

3.21.22 Conflicts in Sponsored Activities that Arise from Personal Interest

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:

- 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.
- 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.
- An investigator's involvement in a sponsored activity that includes testing and validation of new technology developed by a family member of the investigator.

3.21.24 Other Conflict Situations in Sponsored Activities

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:

- 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.
- 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.
- An investigator's loyalty to a family member (see section 3.20.23), 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.

3.21.25 Governmental Conflict of Interest Regulations Concerning Sponsored Activities

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. 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. 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 section 3.21 are intended to implement and comply with these federal conflict of interest rules, so that compliance with this university policy will generally assure compliance with governmental requirements. Investigators are urged, however, to familiarize themselves with the conflict of interest rules adopted by agencies sponsoring their research activities.

3.21.26 Disclosure Procedures for Sponsored Activities

Each person engaged in an area of sponsored research and covered by this policy is responsible for determining whether any actual, potential or apparent conflict of interest or commitment exists. 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, Graduate Studies and International Programs at the time approval for such activity is sought. 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. 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, Graduate Studies and International Programs. 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. The Office of the Vice President for Research, Graduate Studies and International Programs shall furnish such disclosure forms to the Committee on Conflicts of Interest in Sponsored Activities.

3.21.27 Review and Resolution of Conflicts of Interest Relating to Sponsored Activities

The Committee on Conflicts of Interest in Sponsored Activities shall be a standing committee consisting of the Vice president for research, graduate studies and international programs, the director of a college/unit research center or institute director designated by the Vice president for research, graduate studies and international programs and three faculty members appointed by the Vice president for research, graduate studies and international programs and approved by the Faculty Senate. One member of the committee shall not be involved in sponsored research. The Committee on Conflicts of Interest in Sponsored Activities shall meet as necessary to review all disclosure statements and decide in each instance whether:

1. There is no potential conflict of interest; or
2. There was a conflict of interest, which has since been resolved; or

3. There is a conflict of interest that has not been resolved.

In making these determinations, the committee, at its discretion and under conditions of confidentiality, may seek the advice of additional persons. 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. If the committee determines that there is an unresolved conflict of interest:

1. The appropriate dean, vice president or vice provost will be notified;
2. 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
3. Acceptance of an award for the affected sponsored activity will be delayed pending resolution of the conflict.

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:

- Public disclosure of the conflict.
- Divestiture of conflicting financial interests or placement in a blind trust.
- Escrow of a conflicting equity interest until appropriate triggering conditions are met.
- Disqualification of the conflicted individual from management, supervisory or other affected responsibilities for the sponsored activity.
- Prohibition of the conflicted individual's involvement in affected aspects of the research or other activity.
- Severance of business relationships that create the conflict.
- Monitoring of research or other affected activities by independent reviewers.

3.21.28 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.

3.21.29 Retention of Records Concerning Conflicts of Interest in Sponsored Activities

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

1. 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

2. As otherwise provided by law. The original disclosure forms will be retained in the individual's official personnel file.

3.22 Conflicts of Interest Arising from Consensual Relationships

Policy Statement: It is the policy 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.

Scope: This policy applies to all NMSU employees including faculty, staff and student employees.

Definitions:

- A consensual relationship is a mutually acceptable, romantic and/or sexual relationship.
- 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.
- 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.

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.

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 policy. Both parties in the relationship and the supervisor shall sign the resolution. All documentation will be maintained in a departmental file.

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.

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

For Assistance: Questions regarding this policy should be directed to the director of human resource services.

3.25 **Discrimination/Equal Employment Opportunity and Affirmative Action (See Chapter 4 Human Resources – General Policies – Appeals, Discrimination) [edited from Personnel 7-1, AP&P 247]**

New Mexico State University is dedicated to providing equal employment opportunities in all areas of occupation without regard to age, ancestry, color, mental or physical disability, gender, serious medical condition, national origin, race, religion, sexual orientation, gender identity, spousal affiliation, or veteran status, according to state and federal laws. This dedication extends to recruiting and hiring, promotion, and other personnel actions such as compensation, benefits, transfers, layoffs, terminations, training, education, tuition assistance, social and recreational programs. NMSU's comprehensive affirmative action program supports this effort. A listing of applicable state and federal laws includes the following:

- Age Discrimination in Employment Act of 1975
- Americans With Disabilities Act of 1990
- Civil Rights Act of 1991
- Education Amendments of 1972, Title IX
- Executive Order 11141
- Executive Order 11246
- Equal Pay Act of 1963
- New Mexico Human Rights Act
- Pregnancy Act of 1978
- Section 504 of the Rehabilitation Act of 1973
- Titles VI and VII, Civil Rights Act of 1964
- Vietnam Era Veterans Readjustment Act of 1974

While employees are encouraged to resolve personnel issues through discussion with the immediate supervisor(s), employees may contact the Institutional Equity/EEO director for consultation on discrimination matters at any time. If resolution is not attained, a formal or informal grievance may be filed with the Institutional Equity/EEO Office. Employees shall be free to discuss matters with the Institutional Equity/EEO director and file grievances without fear of reprisal.

Hostile Work/Academic Environment: A student or employee may file a claim based on offensive conduct or behavior that is sufficiently severe and/or pervasive to create a hostile work or academic-related environment. Non-discriminatory hostile environment issues are regarded management matters under the purview of the appropriate administrator.

Discrimination-Based Harassment: The university prohibits any unlawful practice of harassment in work or academic environments based on an individual's age, ancestry, color, mental or physical disability, gender, serious medical condition, national origin, race, religion, sexual orientation, gender identity, spousal affiliation, or veteran status. Any supervisor who engages in or condones any harassment of an employee/student based on discrimination will be sanctioned accordingly. All discrimination-based harassment, including third-party complaints, must be reported to the Institutional Equity/EEO Office immediately.

Retaliation: The university prohibits any unlawful practice regarded as retribution or intimidation against any university employee or student who has in good faith: (a) opposed any discriminatory or

employment practice covered by university policies/procedures or state/federal laws; (b) filed a complaint of discrimination or grievance with the Institutional Equity/EEO Office or external state/federal agency with statutory jurisdiction over discrimination filings; (c) reported a discriminatory matter to a supervisor; or, (d) testified, assisted with, or participated in an investigation, proceeding, or hearing protected under same. Such retaliation in and of itself may result in disciplinary action, up to and including termination.

Grievances: Any person with a complaint of harassment or discrimination should, whenever possible, first indicate to the person or persons engaging in the inappropriate conduct that the conduct is unwelcome. If the inappropriate behavior persists, the aggrieved should either report the complaint to the appropriate supervisor or the Institutional Equity/EEO director. All discrimination complaints made to a person in a position of authority must be reported immediately to the Institutional Equity/EEO director regardless of whether or not permission was given by the complaining party. Discrimination grievances are to be filed within 15 working days of occurrence, unless extenuating circumstances warrant exception. All employees and students should be aware that the university is prepared to take action in a timely manner to prevent and remedy such behavior, and that individuals who engage in such behavior are subject to disciplinary action. All individuals are required to cooperate with any investigation in response to an allegation of harassment. Refusal to cooperate in an investigation may result in disciplinary action in accordance with university policy. Any disciplinary action may be appealed through the appropriate procedure. To the extent possible, every effort will be made to safeguard confidentiality, consistent with reporting obligations and the need to investigate promptly and thoroughly. Individuals should contact the following offices for clarification or assistance:

EEO:	(575) 646-3635	Fax: (575) 646-2182	TDD: (575) 646-7802
ADA:	(575) 646-3333	Fax: (575) 646-2182	TDD: (575) 646-7802
Affirmative Action:	(575) 646-2420	Fax: (575) 646-2806	TDD: (575) 646-7826

With the commitment of us all, we will continue to make progress toward the university's goal of including qualified minorities, women, and persons with disabilities at every level of responsibility and endeavor in the university.

3.30 Disability Accommodation (See Chapter 4 – Human Resources – General – Appeals, Disability) [edited from Personnel 8-13, and AP&P 131, 242]

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 accommodation process begins when an employee (or applicant) discloses a disability and requests specific accommodation(s). Under normal circumstances, requests for accommodation(s) are considered after the employee completes and processes the Petition for Accommodation Form available at the Institutional Equity/EEO Office.

3.31 Distribution of Effort [verbatim from BR 43]

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.

3.35 Driving on Non-Road Areas *[verbatim from AP&P 202]*

Motorized vehicles normally employed for roadway use may not be driven on or across campus-improved grounds or walking malls unless specifically authorized by advance clearance by the senior vice president for Planning, Physical Resources and university relations. The university police will assume responsibility after normal work hours, weekends, and holidays. If any damage is incurred by the actions of the violator, the responsible department will be charged for the required repairs. Contractors working for the university are subject to the provisions of this policy and in addition will be cited under the traffic code with appropriate fines. Nothing in this policy should be construed to limit access for emergency vehicles.

3.40 Drug-Free Workplace *[edited from BR, pp. 49-51, referenced AP&P 244-245]*

The university is a recipient of federal grants and contracts in excess of \$25,000 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 president to institute and maintain programs that meet the requirements of federal drug and alcohol regulations. These programs are administered through the Employee Assistance Program and the Office of the Vice President for Student Success.

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 Human Resource Services Office, through appropriate channels, of any notifications received.

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.

3.45 Equal Employment Opportunity (See Discrimination/Equal Employment Opportunity)

3.50 Firearms

It is unlawful and against university policy for anyone to carry a firearm on university premises except for: (1) a peace officer; (2) university security personnel; (3) 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; (4) a person conducting or participating in a university-approved program, class or other activity involving the carrying of a firearm; or (5) 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.

As used in this policy, "university premises" means: (a) 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 (b) 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. Whoever commits unlawful carrying of a firearm on university premises is guilty of a petty misdemeanor and may be subject to disciplinary action as appropriate.

3.55 Fires, Fireworks *[edited from BR 105]*

This fire prevention policy 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.

3.60 Flags (National, State) *[verbatim from AP&P 202]*

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.

3.63 Freedom of Expression (See Sales and Solicitation and Political Activity)

The university recognizes and promotes an intellectually open campus. The free exchange of ideas through written, spoken, and other forms of expression reflects its public land-grant heritage, support of diverse points of view, and commitment to excellence in education and research.

Campus Use for Free Expression: Any outdoor area that is generally accessible to the public may be used by any individual or group for petitioning, distributing written material, handing out newspapers, or conducting speech acts. Prior approval is not necessary as long as the primary action is not to advertise or sell a commercial product. Activities must follow all applicable fire codes, local, state, and federal laws. Activities shall not:

- Unreasonably obstruct vehicular or pedestrian traffic.
- Block the entrances or exits to buildings and facilities.
- Permanently occupy land areas or permanently locate signs and posters.
- Erect permanent structures, shelters or camps.
- Unreasonably interfere with classes, university work, and scheduled events.

In exercising the right of free expression, an individual must also accept the responsibility of following the laws related to the safety of people and property. If property damage or excessive littering occurs, or other unusual expenses are incurred by the university as a result of the event, event organizers may be held responsible for reasonable charges if deemed appropriate by the president (or designee).

Petitioning and the Distribution and Posting of Literature and Signs: All literature distributed must contain identifying information (either the name of a university sanctioned organization; the name and address, which may be an organization and e-mail address, of the unaffiliated entity or person; or the telephone number of the unaffiliated entity or person) for someone to contact in case of litter problems. Literature may be distributed hand-to-hand, through the use of tables, or by posting on designated bulletin boards and kiosks. Written materials may not be placed in non-approved locations. Written materials may not be placed on any part of a university building or structure without university permission. Posting on traffic signs, power poles, trees, and automobile windshields is not allowed. Tables are allowed as long as the tables do not unreasonably interfere with pedestrian traffic. Materials may not be left on unattended tables. While scheduling of tables is not required in advance, those individuals who have previously scheduled a site through the Campus Activities Office or other appropriate university offices will take precedent.

Group Speech Activities: Group speech activities, including rallies, parades and demonstrations, that are advertised through public media including newspapers, radio, television, flyers, or electronic lists may need to be coordinated through the university Police Department. Any individual, group, or organization sponsoring a group speech activity that is expected to draw more than 100 persons at one time and uses public media for advertising must notify the university Police Department no less than 72 hours in advance of the activity, so that the university Police Department can take appropriate actions to ensure the safety of the event and issue a permit as proof of prior notification. Activities expected to draw 500 or more participants, or require road closures or detours, must be scheduled 2 weeks in advance. Any individual, group, or organization planning a group speech activity is encouraged to contact the Campus Activities Office in advance so that activities may be coordinated with appropriate university offices. This will allow for locations to be reserved or other concerns to be addressed, such as the use of sound amplification equipment. Contacting the Campus Activities Office is voluntary and does not constitute an approval process. All scheduling is done on a "first come, first serve" basis. Activities that are scheduled receive priority in the use of space on campus.

Electronic Sound Amplification: The use of electronic sound amplification equipment 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 "Aggie Pond" area off Espina Street, from 7:00 a.m. to 7:00 p.m., Sunday through Thursday; and from 7:00 a.m. to midnight on Friday and Saturday. Sound amplification equipment may be allowed at other times and in other locations if coordinated in advance through the Campus Activities Office.

Use of Chalk: Chalk may be used on campus as long as it is restricted to concrete walkways. All chalk used must be of a temporary or removable nature. Permanent chalk, such as surveyor's chalk, may not be used under any circumstances.

Policy Enforcement: Any person violating this policy will be subject to:

- Being asked to cease and desist or to relocate by appropriate university employees acting within the scope of their duties.
- Being ordered to leave the premises or property owned or controlled by the university by the police or a person in charge of the property.
- Institutional disciplinary proceedings under the Student Code of Conduct if a student. Violations by faculty or staff will be referred to the appropriate department or academic unit.
- Arrest for violation of local, state, and federal law(s).
- Restriction of future use of, or access to, the university campus.

Reference to Other Policies Impacting Freedom of Expression: In the event that the terms of this policy conflict with other existing policies impacting freedom of expression in areas generally accessible to the public, the terms of this policy shall prevail.

3.65 Intellectual Property (Faculty and Staff) (See Chapter 5 Faculty – Research)

3.70 Office Hours - Administrative (See Chapter 5 Faculty – Office Hours, Chapter 7 Benefits – Holidays, and Chapter 8 Staff – Workweek) [edited from AP&P, p. 231, Personnel Ch.2, p.6]

As a general rule, individual work schedules will conform to the public hours of 8 a.m. to 5 p.m., Monday through Friday. (Some offices close from 12 noon to 1 p.m. for lunch.) Most offices are closed on Saturday and Sunday except on special occasions and as required by the Vice Provost for Distance Education & Extended Learning. However, with approval of the appropriate dean or vice president and the executive vice president and provost, departments may establish alternate work schedules if it is determined they better meet the needs of the clientele and/or better serve the needs of an individual employee without adversely affecting the clientele. Alternate work schedules are to be of a semi-permanent nature (e.g., 1 semester at a time, 1 academic year at a time, etc.). All requests and subsequent approval or denial of alternate work schedules are to be in written form. It is understood that not all jobs are open/available for alternate work schedule consideration.

3.75 Personal Use (of University Resources)

The university deals constantly with the public's perception of how the university conducts its business. University employees, should always be mindful of the resources entrusted to them by the public, government entities, and private donors. Employees should be mindful of the necessity for conducting themselves with the highest ethical principles; of avoiding any action that may be viewed as a violation of the public trust in the use of these resources; and of their responsibility to act so that others are not deprived of access to these same resources as they perform their duties. These resources include, but are not limited to, employee's time, facilities, supplies, and equipment, such as telephones, fax machines, and computers. 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.

Guidelines: The use of the university's resources and services for non-official purposes is permitted only in compliance with the following criteria:

1. The cost to the university must be negligible.
2. The use must not interfere with an employee's obligation to carry out university duties in a timely and effective manner. Time spent engaged in the non-official use of university resources is not considered to be university work time.
3. The use must in no way undermine the use of university resources and services for official purposes.
4. The use neither expresses nor implies sponsorship or endorsement by the university.
5. The use must be consistent with state and federal laws regarding obscenity, libel, or the like, and state and federal laws and university policies regarding political activity, the marketing of products or services or other inappropriate activities.

6. Users should be aware that internal or external audit or other needs may require examination of uses of university resources or services and should not expect such uses to be free from inspection.

In applying these guidelines, each case will depend upon the particular circumstances and other important factors such as materiality or reasonableness. The ultimate control, therefore, lies with each employee's supervisor, as that person should have direct knowledge of the behaviors and needs of the individual employee. Employees should consult with their supervisors in advance if they have any questions about appropriateness of certain practices. A supervisor's decision cannot, however, circumvent other policies and procedures that may restrict personal use beyond the limitations cited in these guidelines. For example, the use of telephones, fax machines, mail services, and vehicles must comply with existing university policies; the use of university resources in political activity is prohibited.

Telephones and Fax Machines: Deans, department heads, directors and other administrative officers are responsible for the fiscal management of telephone expenditures. university desk phones, pagers, fax machines, and telephone credit cards are for business purposes. As such, personal calls and faxes should be kept to a minimum. In the event that it is necessary to make a personal long distance call, the call should be charged to an employee's personal credit card or home phone whenever possible. If a personal long distance call or fax is charged to a university desk phone, fax machine or credit card, the employee is responsible for identifying that the call is personal on the monthly statements sent from Telecommunication and Networking Services and for reimbursing the university for such calls. Employees are required to sign monthly certifications stating that all calls not reimbursed are business related. Management should periodically review the extent of personal calls to verify that it is not excessive for any one employee.

Cellular or Mobile Telephones: Cell phones may be used for business calls. All cell phones to be used specifically or primarily for business purposes should be purchased and owned by New Mexico State University. Administrative units are responsible for determining when an employee needs a cell phone to fulfill job responsibilities. Since cellular telephone plans are based on the number of minutes anticipated to be used per month, the smallest plan available to accommodate the business needs should be selected. No employee may approve the employee's own cellular service plan.

University-Owned Cell Phones

Provider: New Mexico State University is partnered with Alltel Communications and Verizon under the negotiated state contract. The contract provides discounted pricing and the ability to move between service plans. Call Information and Communication Technologies Customer Service Center, or visit web site <http://ict.nmsu.edu/CSC> for more information.

Equipment: Baseline cell phone equipment and the most economical usage plans should be purchased. The individual must pay personally for any upgrade, unless specific business needs require it. Employees are responsible for the safekeeping and care of the university cell phone.

Purchase and Payment: For purchases, arrangements are made with the provider through Information and Communication Technologies Customer Service Center. The most economical service plan that meets individual business needs must be chosen. Any employee is eligible for a university-owned cell phone, but should check with their supervisor or department head regarding department procedures. At a minimum, the supervisor must provide written authorization for a university-owned cell phone and the associated service plan.

Personal Calls: University cell phones must be used primarily for business calls; personal calls are restricted. If personal calls are placed or received, the individual must reimburse the university for the personal minutes, up to any total overage charge shown. Providing that personal calls are kept to an absolute minimum and that the most economical service plan that meets business needs has been

chosen, no portion of the basic, routine monthly charge for service and plan-allotted minutes need be reimbursed. Specific personal calls should always be marked on all invoices and statements.

Individually-Owned Cell Phones

Employees may use personally owned cell phones to make an occasional business call if needed. Reimbursement is available for minutes spent on a business call, only up to the total overage charge shown on the invoice. For reimbursement of such charges, the individual should make personal payment to the provider, then must submit a request for reimbursement, listing the individual as the payee. A copy of the invoice should be attached, with the separate business-call charges clearly marked.

No portion of the basic, routinely monthly charge for service and plan-allotted minutes will be reimbursed.

High Speed Data Connectivity: High Speed Data Connectivity paid for with NMSU funds and provided in an employee's home or place of residence must be used for business purposes. Deans and vice presidents/provosts are responsible for the fiscal management and approval of High Speed Data Connectivity being provided in an employee's home. A signed copy of the approval form must be maintained on file in the employee's dean's and vice president's/provost office in order for service to be provided.

Mail Services: Personal and non-university-business mail should not be placed at pick-up points for the university-employed carriers. Likewise, university accounts should not be charged for mailing personal material.

Pornographic Material: Employees downloading, printing, accessing, forwarding, transmitting or viewing pornographic material on the university computers during and after work time is not allowed. Those who may happen to see the material could potentially report the incidents as offensive and/or inappropriate for the work environment.

Personal Computer Use: The users of the computing resources are expected to take a responsible and professional approach to the use of those resources. Since the resources are shared, every client must accept the specific responsibility of minimizing the impact of one's actions on others. The use of any university resources for support of private enterprise such as outside consulting should only be in accordance with stated policies, and under explicit written agreements. Specific guidelines and policies for computer use are maintained by Information and Technological Services <http://nmsu.edu/~CandN/Guidelines> .

Vehicles: (See Chapter 9 Facilities and Services – Transportation Services-Rental/Lease)

3.80 *Pets [edited from AP&P 201]*

All pets, and especially dogs brought on main or community colleges campus community colleges, must be on a leash held in the hands of a responsible person. The pet must not be left unattended or unconfined. For reasons of sanitation and health, pets will be restricted from "No Pets" posted areas used by students and the general public for outdoor campus activities or recreation. These areas include but are not limited to intramural fields, Preciado Park, and the Horseshoe. With the exception of laboratory animals and herdsman's working dogs, only seeing eye, hearing ear and other service dogs in use by individuals with disabilities will be permitted in classrooms or other campus buildings.

3.82 Picnics [verbatim from AP&P 201]

Group picnicking is allowed if scheduled through Conference Services.

3.86 Political Activity (See Freedom of Expression Policy) [edited from AP&P 256, reference BR 94 and Appendix B]

Campaign activities for candidates for public office or for ballot issues to be presented in local, state, and national elections may be permitted on the university campus when conducted by candidates or their representatives. These activities are subject to the freedom of expression policy. In addition to the locations covered by the freedom of expression policy, Corbett Center (lower lobby information table areas and meeting rooms and spaces) may be used for political activity subject to the rules, regulations, and fees applying to those sites. (See Chapter 2 Miscellaneous - United Way) The responsible authority for the enforcement of this policy shall be the vice president for student success (or designee), whose decision shall be final.

3.90 Religious Denominations [edited from AP&P 259 and 228]

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.

3.92 Sales and Solicitation [edited from AP&P pp. 248-256]

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 policy will be administered through the vice president for student success, with delegation for its enforcement to the director of campus activities. Copies of the policy may be obtained through the Campus Activities Office. ***In the event that the terms of this policy 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.*** Definitions are as follows:

Activity Request Form - A form used by the Campus Activities Office 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.

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.

Off-Campus, For-Profit Organizations - Organizations that have, as their central purpose, the generating of a profit for their owners, partners, or stockholders.

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.

Personal Gain - An activity which is intended to benefit an individual financially.

Solicitation - The act of selling or encouraging the purchase of a product either directly or indirectly.

Student Organizations - Organizations (recognized by the Campus Activities Office) 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).

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).

University Department - 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).

Sanctions: Failure to adhere to the sales and solicitation or general fund raising policy 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.

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 Statutes. Affiliated organizations are not considered university organizations for the purpose of this policy and are not extended privileges for on-campus sales under this section.

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.

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 policy.

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 policy.

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.

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.

Manner of Solicitation: Approved solicitations shall be carried out in a manner which does not:

- Unreasonably obstruct vehicular or pedestrian traffic.
- Block the entrances or exists to building and facilities.
- Erect permanent structure, shelters, or camps.
- Unreasonably interfere with classes, university work, and scheduled events.

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 Campus Activities Office 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 Senior Vice President for Planning, Physical Resources and University Relations.
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.

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.

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 (e.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 (e.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 Student Family Housing is notified in advance. Instruction in the proper methods of conducting sales and assistance in the advertisement of these sales is provided by Student Family Housing. Student Family Housing 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 Request 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.)

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 Campus Activities Office by completion of an Activity Request 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 (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 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.

Sales by University Employees: University policy prohibits the sale of goods and services by employees to the university, or the purchase of same by the university from employees. Requests for an exception to this policy must be initiated through the director of purchasing. (See Chapter 4 - Outside Employment) 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 purchasing. Existing academic or human resources policies governing such activities shall take precedence over this policy (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.).

Sales/Solicitation Policy for Non-university Organizations and Individuals: 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 interests may display the name, identifying symbol, or features of the donor or provider, when such displays are consistent with the campus planning regulations and are judged by the executive vice president and provost and the president 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 is permitted when authorized by the vice president for student success (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 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 request 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 (e.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 (e.g., fraternity and athletic club photographers, etc.) In all such cases, prior written approval must be obtained from the director of campus activities.

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 (e.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 (i.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). (See Chapter 3 - Political Activity)

Food Service Policy 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 policy outlines the conditions under which student, staff or faculty activities may involve food and beverage services:

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 Request Form from the Campus Activities Office.

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.

Non-university vendors providing services in approved locations on campus other than athletic facilities must be pre-certified by the director of housing and dining services and rebate to the Office of Housing and Dining Services a commission of seven percent of all sales applicable to the campus event.

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:

1. The products are served exclusively to the members and guests of the sponsoring organization at private gatherings, such as club meetings.
2. 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.)
3. 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.

Individuals on campus may secure food from those off-campus vendors who provide delivery service (e.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 (e.g., a residence hall's policy).

Given health, safety, and liability concerns, raw food may not be secured for preparation and distribution on campus unless approval is obtained in writing from the director of campus activities and from the Public Health Division (per following paragraph):

"Organizations granted approval for a public event where the preparation, sale, or distribution of food products is conducted must apply for and receive a State of New Mexico Food Purveyors License. The license must be obtained from the Public Health Division of the State Health Department, Office of Health Facilities Licensing, 1170 North Solano Drive, Las Cruces, New Mexico, in accordance with the New Mexico Food

Service Sanitation Act, Chapter 309, Laws of 1977. A copy of the license must accompany the Activity Request Form or other request for conducting the event. Failure to secure the license constitutes automatic disapproval of the request.”

General Fund-Raising Policy 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 policy 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.

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. Fund-raising activity proposals from recognized student organizations will be initiated with the director of campus activities by completing an Activity Request Form. Approved fund-raising activities are to be coordinated through the Office of the Vice President for University Advancement or the Campus Activities Office in a manner appropriate to each activity/project and in accordance with policy guidelines stated herein. 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. 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. Internal operating policies related to fund-raising events in specific facilities shall have jurisdiction when an event is held in these facilities (e.g., residence halls, Corbett Center, Pan American Center). 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. All funds raised through an activity and deposited in NMSU Foundation, Inc. accounts shall be administered in accordance with policies and procedures of the Foundation. 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. 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.

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. (See Chapter 2 - United Way for exception.)

3.94 Sexual Harassment – Gender Discrimination (See Chapter 4, Appeals - Discrimination) *[edited from AP&P 132-133]*

It is the policy of New Mexico State University to provide an atmosphere free of sexual harassment for all faculty, staff, students, and visitors.

According to the U.S. Equal Employment Opportunity Commission and the U.S. Office for Civil Rights, unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic progress; (2) students' educational pursuits are adversely impacted; (3) submission to or rejection of such conduct by an individual is used as the basis for academic or employment decisions affecting such individual; (4) such conduct has the purpose or effect of unreasonably interfering with an individual's academic or work performance, or creates an intimidating, hostile, or offensive working or learning environment. Harassing conduct based on gender often is sexual in nature, but sometimes is not. Any unwelcome conduct based on gender is also forbidden by this policy regardless of whether the individual engaged in harassment and the individual being harassed are of the same or different gender. Common forms of harassment include offensive or abusive physical contact, joking, lewd language, suggesting sexual favors, displaying sexually suggestive objects, pictures, magazines, calendars, etc.

Hostile Work/Academic Environment: A student or employee may file a claim based on sexually offensive conduct that is sufficiently severe and/or pervasive to create a hostile work or academic environment. A hostile work or academic environment based on unwelcome attention, leers, or remarks of a sexual nature may also be grounds for sexual harassment. The university extends this protection to students in the classroom or in any academic-related settings. Hostile environment harassment based on discrimination should be referred to the Institutional Equity/EEO Director. Non-discriminatory hostile environment issues are regarded management matters under the purview of the appropriate administrator.

Retaliation: Any university employee or student may report violations of this policy without fear of retribution. The university prohibits retaliation against individuals because they have in good faith: (1) opposed any discriminatory or employment practice covered by university policies/procedures or state/federal laws; (2) filed a complaint of discrimination or grievance with the Office of Institutional Equity/EEO or external state/federal agency with statutory jurisdiction over discrimination filings; (3) reported a discriminatory matter to a supervisor; or, (4) testified, assisted with, or participated in an investigation, proceeding, or hearing protected under same. Such retaliation in and of itself may result in disciplinary action, up to and including termination.

Grievances: Persons who feel they have been harassed should whenever possible first approach the person or persons engaging in the inappropriate conduct indicating that the conduct is unwelcome. If the unwelcome behavior persists, the aggrieved should either report the complaint to the appropriate supervisor or the Institutional Equity/EEO director. All sexual harassment complaints made to a person in a position of authority must be reported to the Institutional Equity/EEO director (or the human resource services director if uncomfortable reporting the complaint to the Institutional Equity/EEO director) immediately, regardless of whether or not permission was given by the party subjected to the harassment. Allegations of sexual harassment are to be reported within 15 working days of occurrence, unless extenuating circumstances warrant exception. All employees and students should be aware that the university is prepared to take action in a timely manner to prevent and remedy such behavior, and that individuals who engage in such behavior are subject to disciplinary action. Any disciplinary action may be appealed through the appropriate procedure. To the extent possible, every effort will be made to safeguard confidentiality, consistent with reporting obligations and the need to investigate promptly and thoroughly. Contact the Institutional Equity/EEO director at (575) 646-3635 for any questions or clarifications to this policy statement.

Sanctions: Individuals who engage in sexual harassment, or supervisors who neglect to control the work environment and/or learning environment, will be held accountable. If it is determined that a violation of this policy has occurred, appropriate disciplinary action, training, and other measures will be taken to remedy the situation. All individuals are required to cooperate with any investigation in response to an allegation of harassment. Refusal to cooperate in an investigation may result in disciplinary action in accordance with university policy.

3.98 Smoking Policy [Adopted by Administrative Council 5/9/06; ratified by Board of Regents 9/8/06]

A. General

Accumulating evidence has shown environmental or second hand tobacco smoke increases the risk of cancer and other health hazards for non-smokers as well as smokers. NMSU has a vital interest in maintaining a healthy and safe environment for its students, faculty, staff and visitors while respecting individual choice. Consistent with these concerns and the New Mexico Clean Indoor Air Act, NMSA 1978, § 24-16-1 through 11, the following policy has been established to restrict smoking of tobacco, or any other weed or plant, and provide procedures for accommodating the preferences of both smokers and nonsmokers.

Smoking of tobacco products is prohibited in all buildings (exceptions below) owned or leased by the university as well as within 25 feet of entrance or exit, vehicles, and during some organized outdoor events on university property.

B. Smoke Free Areas

Smoking is prohibited in or at:

- all enclosed buildings and facilities including classrooms, offices, food service venues, lavatories, and most residence halls (in accordance with Housing and Residential Life policies);
- within 25 feet of building entrances and exits (when reasonable) and fresh air intake grills unless it is a specially designated smoking area;
- partially or fully enclosed walkways, corridors, elevators;
- vehicles owned, leased or rented by the university;
- within 50 feet of any area where flammable materials are handled or stored, or where other significant fire hazard may exist; and
- indoor athletic or other university-sponsored or designated events.

No Smoking signs or the international no smoking symbol will be posted at major entrances of all university buildings except for those campus residences where smoking is permitted.

C. Smoking Permitted Areas

Smoking is permitted outdoors on university property except during organized events which have been designated as "No Smoking". Individuals choosing to smoke outdoors must be 25 feet from doorways, open windows, enclosed walkways, and ventilation systems to prevent smoke from entering enclosed buildings and facilities, and to prevent public access from being denied to an individual with a respiratory medical condition.

In accordance with Housing and Residential Life policies, smoking is permitted in those units which constitute private residences; when everyone in the shared residence is a smoker or at the discretion of each Family Housing unit.

Fraternities and sororities will work toward an agreement, consistent with university policy during the 2006-07 school years.

D. Education and Services for Smokers

In light of numerous adverse health effects associated with active smoking, and with exposure to second hand smoke, the university will provide educational services to faculty, staff, and students about the hazards of smoking and information and services on quitting smoking. In addition to consulting with their own health care providers, students, faculty, and staff may get assistance from the following university programs.

- Students may contact the NMSU Student Health Center for information and programs on quitting smoking.
- Faculty and staff may obtain assistance in smoking cessation through the Employee Health Center.

E. Cooperation and Compliance

This policy relies on the mutual courtesy and cooperation of smokers and nonsmokers for its success. It is the responsibility of all members of the NMSU community to observe the provisions of this policy on smoking. Complaints or concerns or disputes regarding its implementation should be referred to the immediate supervisor for resolution. Environmental Health & Safety will assist in determining what distance or location is reasonable for the particular situation. If a resolution cannot be reached, the matter will be referred by the supervisor to the appropriate Department Head, director, Dean, Vice President for mediation. Managers, Department Heads and unit directors are responsible for seeing that persons in their areas are informed and comply with this smoking policy. Those having difficulty complying with these restrictions are encouraged to seek assistance from the resources listed in Section D. Students, faculty, and staff violating this policy are subject to disciplinary action. Any person who commits an unlawful act under any of the provisions of the New Mexico "Clean Indoor Air Act" shall be fined in an amount not less than ten dollars or more than twenty-five dollars for each violation.

F. Disposal of Tobacco Waste

Anyone who chooses to smoke or use smokeless tobacco on campus must discard the waste in an appropriate manner.