

## **Chapter 8 Staff Policies**

- 8.05 Area/Shift Differentials
- 8.10 Career Development/Apprenticeship Training
- 8.15 Compensation
  - 8.15.10 Employee Recognition Program
- 8.16 Hardship Differential Pay [Adopted by Administrative Council 7/11/06; ratified by Board of Regents 9/8/06]
- 8.20 Compensatory Time, Overtime, Holiday Pay (See Chapter 4 - Hiring - Definitions - Employees Exempt.)
- 8.25 Consulting (Exempt Staff)
- 8.30 Disciplinary Action/Involuntary Termination (See also Chapter 4 Human Resources - General - Appeals.)
- 8.35 Grievances (See Chapter 4 Human Resources - General - Appeals.)
- 8.40 Hiring (See Chapter 4, Human Resources - General - Hiring.)
- 8.45 Layoffs/Recall (See also Chapter 4 - Human Resources - General - Layoff/Financial Exigency.)
- 8.50 Performance Evaluation/Probationary Period (See also Chapter 5 - Faculty - Deans - Reviews and Department Head - Reviews.)
- 8.55 Promotion and Reclassification (Exempt and Nonexempt Staff)
- 8.60 Resignations
- 8.65 Terminations (See Disciplinary Actions or Resignations.)
- 8.70 Transfers
- 8.75 Workweek (See also “Comp” Time/Overtime.)

## CHAPTER 8 - STAFF POLICIES

### 8.05 Area/Shift Differentials

Shift Differential Pay (Nonexempt): Work schedules are divided into three, 8-hour shifts in any 24-hour work day. Normally, the daytime shift receives the base rate of pay; the second shift (swing) receives a \$.10 per hour pay differential; the third shift (graveyard) receives a \$.40 per hour pay differential. Any granting of differentials other than those specified must have specific approval of the Human Resources Office. Payment is reported on Form 302 for employees rotating shifts. A Personnel Action Form is used for nonrotating shift employees. The comment section of the Personnel Action Form should note the base salary and shift differential separately. In order to be eligible for a shift differential, an employee's normal work schedule must extend more than 3 hours into the swing or graveyard shift. An employee is eligible for shift differential pay only for those hours extending into the swing or graveyard shift.

Area Differential Pay: Occasionally, employees are sent on temporary duty to locations outside their normal work area. When the cost of temporary lodging and food exceeds the normal per diem rate, the supervisor may request a temporary adjustment to the employee's base pay during the absence to compensate for this loss. Such requests should be submitted to the Human Resources Office. Adjustments in the in-hire rate for nonexempt employees to a rate above the entry rate to compensate for areas or positions in which the university's entry level salary is not competitive may be considered by the Human Resources Office.

### 8.10 Career Development/Apprenticeship Training

When qualified applicants are not available to fill a position, or the employing department desires to establish a trainee position, the director/department head, (in cooperation with the Human Resources Office) may develop a job development program that will provide an opportunity for the individual to become qualified for a position. Normally, the salary schedule for the trainee will not be less than 80 percent of the minimum nonprobationary salary for the position and will provide for periodic incremental increases.

Apprenticeship Training (Applicable to recognized apprenticeship programs only): Apprenticeship programs may be submitted for approval by the Human Resources Office. Apprentices who have satisfactorily completed the training may be promoted to the first available position for which they are qualified without competitive advertising with prior approval by the Human Resources Office. All apprentices assigned to the university through federal, state, or local programs may be placed on temporary employment status. Prior to the end of the employment period, the employee will receive a performance evaluation report and either be terminated or granted a regular appointment.

### 8.15 Compensation

#### Salary Schedule:

Exempt Employees - Entry salary for exempt employees is determined in accordance with the exempt salary schedule by direct negotiation between the employee and the supervisor with prior approval of the appropriate dean, director, vice president, or executive vice president and provost and the Human Resources Office.

Nonexempt Employees - New employees are normally hired at entry level of the appropriate grade. With justification and prior approval appropriate dean, director, vice president, or executive vice president and provost and the Human Resources Office, certain applicants may be hired at 5 percent or 10 percent above the entry level dependent upon experience. Employees hired above entry level are not eligible for an end of probation increase. Adjustments may be made to the in-hire rate for positions or in areas that require a higher rate to be set competitive with the local market. (See Area Differential.) The salaries of all employees occupying nonexempt positions are based on the grade as set by the current salary schedule and the university job classification specification. No employee shall be paid less than the minimum for his or her grade in the salary schedule. Classification specifications are standardized descriptions of the characteristics, duties, and minimum qualifications for a group of positions. The qualifications statement in each classification specification establishes minimum requirements that are to be met by an individual before being considered for appointment or promotion. Combinations of education and experience are specified in the classification specification. Other combinations, if deemed equivalent by the Human Resources Office, may qualify an individual for appointment or promotion. Employees may be required by their supervisor to perform duties outside the general skill level of their classification specification on a temporary basis. A supervisor who determines that the standard classification specification does not accurately describe a position should initiate reclassification action (See Promotion and Reclassification.).

Temporary Nonexempt Employees: A temporary employee is normally hired at the entry level of the appropriate grade and remains at the in-hire rate unless the salary schedule changes. If the salary scale changes, the salary is adjusted in accordance with the new scale. If the salary scale does not change, the employee may be awarded the appropriate base adjustment. Temporary employees are paid on an hourly basis. The E-Hire Form must specify a termination date that does not exceed 12 months. Temporary employees are not eligible for insurance coverage, benefits or holiday pay. The Notice of Employee Separation Form, employment application/resume, and I-9 Form accompany the appointing E-Hire Form, attached to the transmittal form.

Temporary Exempt Employees: Compensation is in accordance with the exempt salary schedule and may be negotiated between supervisor and employee with prior approval of the Human Resources Office and/or the executive vice president and provost. The supervisor makes salary recommendations at the time the position is requested. (See Comp Time/Overtime.) Exempt temporary employees are not eligible for insurance coverages, benefits or holiday pay. The appointing E-Hire Form must specify a termination date not to exceed 12 months and should contain a brief explanation of the work to be performed and salary calculation. The Notice of Employee Separation Form, resume and I-9 Form should accompany the E-Hire Form, attached to the transmittal form.

Temporary Assignment to a Position of Another Level:

Nonexempt Employees:

Wage Increases:

Nonexempt employees shall receive a 5% wage increase effective on July 1, 2007; an additional 5% wage increase effective on July 1, 2008; and an additional 5% wage increase effective July 1, 2009. Except as otherwise provided by legislative appropriation, wage increases shall be administered each year as follows:

1. All eligible employees whose base salary is less than \$30,000 prior to the increase shall receive a full 5% wage increase.
2. For eligible employees whose base salary is \$30,000 or more prior to the increase, a percentage of the wage increase – 90% in 2007, 70% in 2008, 70% in 2009 – shall be added to each eligible employee's salary as a cost of living base adjustment. Organizational units shall be allocated a block of funds for the remaining percentage of the wage increase – 10% in

- 2007, 30% in 2008, 30% in 2009 – for performance adjustments to such eligible employees, to be distributed at the unit’s discretion as justified by performance evaluation ratings.
3. The following employees shall not be eligible for any wage increase:
    - (a) employees hired after the preceding March 31.
  4. The following employees shall not be eligible for a performance adjustment:
    - (a) employees hired after the preceding January 1;
    - (b) employees on Long Term Disability (LTD) or Leave Without Pay (LWOP) status for six (6) months or more during the preceding review period;
    - (c) employees with a “needs improvement” or “unsatisfactory” overall performance rating on the preceding performance evaluation.

All wage increases are contingent upon the specific appropriation of funds by the Legislature for such increases, which shall be implemented if the specific appropriations are granted.

Higher classification: An employee who is temporarily assigned to a higher position for a period in excess of 1 calendar month may be assigned a salary in the higher grade in accordance with the rules for promotion (See Rate of Pay for Promotion.) from the first day of the assignment. To be assigned to the grade, the employee must meet minimum qualifications for the position. If there are no qualified employees, the duties will be reassigned to other employees.

Lower or lateral classification: The employee will not receive any adjustment in pay.

Temporary assignments: Temporary assignments will not normally exceed 1 calendar year.

Exempt Employees: Salary adjustments and period of assignment will be approved on an individual basis by the Human Resources Office and the executive vice president and provost. Adjustments will be in accordance with the promotion policy outlined below.

Rate of Pay on Demotion (Voluntary or Involuntary):

Nonexempt Employees: When a nonexempt employee is demoted or accepts a position at a lower grade level, a salary rate will be received in the lower salary range that is 5 percent above the entrance level; or the following percentage decrease, whichever is less of a reduction:

- 5 percent if the demotion is one grade.
- 8 percent if two or three grades.
- 15 percent if four grades.
- 5 percent per grade thereafter.

Exempt Employees: Recommendations for exempt salary rates should be submitted to the Human Resources Office for approval by the executive vice president and provost.

Rate of Pay on Voluntary Lateral Transfer to the Same Grade: Whenever an employee makes a lateral transfer, there is normally no change in salary.

Rate of Pay for Promotion, Equity or Base Adjustment:

Nonexempt Employees (Nonprobationary): The new base salary for nonexempt employees on a promotion will be:

- 5 percent if promotion is one grade.
- 8 percent if two or three grades.
- 15 percent if four or more grades.
- 5 percent above entry level of new grade, whichever is greater.

Exempt Employees: Exempt employees may receive an internal promotion, equity or base adjustment salary increase of from 0 to 15 percent or to entry of the new salary level with prior approval of the executive vice president and provost. Internal promotions should not normally exceed a two-level increase. Equity adjustments may be considered dependent upon availability of funding for exempt employees. Internal and external market comparisons are reviewed when considering equity adjustment requests.

Nonexempt to Exempt: A nonexempt employee being internally promoted to an exempt position may receive a salary increase of from 0 to 15 percent or to entry of the new salary level with prior approval of the Human Resources Office and the executive vice president and provost.

Rate of Pay on Reclassification (Nonprobationary):

Nonexempt Employees: The new base salary on reclassification to a higher grade will be:

- 5 percent if one to three grades.
- 10 percent if four or more grades.
- up to 15 percent if from nonexempt to exempt.
- 5 percent above entry level of new grade, whichever is greater.

A nonexempt employee reclassified to an exempt position may receive a salary increase of from 0 to 15 percent or entry of the exempt level with approval of the Human Resources Office and the executive vice president and provost. Reclassification to the same grade level will not affect the salary. An adjustment in classification by the Human Resources Office which results in change of grade or elimination of title may or may not result in a salary change. Decisions regarding such changes will be made on a case-by-case basis.

Exempt Employees: Exempt employees may receive a salary increase of 0 to 15 percent or to entry of the new salary level with prior approval of the executive vice president and provost. Reclassifications will not normally exceed two levels.

End of Probation Salary Adjustment (Nonexempt Regular Employees Only): Upon satisfactory completion of the initial probationary period, a new nonexempt employee may receive a 5 percent salary increase. Employees hired above the entry level will not receive an increase. Supervisors complete a Personnel Action Form and performance evaluation to implement the change from probationary to regular status. The salary increase will be effective 6 months following the employee's employment date or upon completion of the probationary period.

Retroactive Pay Adjustment: Retroactive payment may be made back to the day of the calendar month in which the general pay adjustment was approved. Example: an employee was granted a pay adjustment effective April 26 but, due to an error, the proper amount was not paid. The error was discovered on June 15. The retroactive adjustment may be made back to April 26, the date the adjustment was approved. Salary adjustments may not pass beyond fiscal year dates without specific approval of the human resources director. If an employee is overpaid due to an administrative error, the employee will be responsible for reimbursing the university for the total overpayment.

Meal Periods - Rest Breaks: A normal work day shall consist of 8 hours of work with a minimum of one-half hour and a maximum of 1 hour of nonwork time granted for a meal period. Periods of less than 1 hour meal time and specific eating on the job arrangements must be approved by the department head or director. A 15-minute break period is allowed during each 4-hour work period. Nonusage of break periods may not be used to make up time spent away from work. Break times can not be accumulated.

Three-Year Longevity Increase: Nonexempt employees who satisfactorily complete their initial 3 consecutive years of service will be awarded a 5 percent increase effective on the employee's anniversary date. Temporary or occasional employees are not eligible for the 3-year service award. Prior service with a break in employment in excess of 5 working days is not credited toward the 3 years of service. Leave without pay will not be included as service time.

Service Increase: Regular nonexempt employees may be awarded a service increase upon satisfactory completion of 10, 15, 20, 25 and 30 years of regular consecutive service. The increase will be effective on the first day of the month after the anniversary date (i.e.; if the anniversary date is January 13, the award will be effective February 1). The increase will be \$750 after 10 years; \$850 after 15 years; and \$1,000 after 20 years. (To be prorated for less than full time employees). The increase may not be retroactive and will be subject to satisfactory performance as documented on the performance evaluation form.

Daily Maximum Hours of Employment: No employees, other than fire fighters, law enforcement officers, dispatchers, or farm or ranch hands, whose duties require them to work longer hours, or employees primarily in a standby position shall normally be required to work more than 16 hours in any 24-hour period, except in emergency or special situations.

Deductions from Pay: Improper deductions from an employees pay are prohibited. Full day suspensions without pay are allowed for exempt employees. Suspensions must be related to conduct. Supervisors must obtain prior approval from the appropriate dean or vice president/vice provost and the Human Resources director. An exempt employee's pay can be docked for a voluntary day off if leave is unavailable to cover the time. Refer to FMLA policy 7.20.45 for allowable partial day docking. (See also 8.30 Disciplinary action/Involuntary Termination and 4.05.11 Appeals/Grievances.)

#### **8.15.05 Multi-lingual Pay**

In facilities or offices where the Employer deems it necessary to have on staff multi-lingual employees to facilitate communications with members of the public, and employees on staff assigned to the facility are available and capable of fulfilling such need, the university may designate a sufficient number of employees in the assigned work force to perform such duties and such employees shall be entitled to a differential in the amount of \$.10 per hour

#### **8.15.10 Employee Recognition Program**

Policy Statement: New Mexico State University recognizes the most important and valuable asset any organization has is its employees. In appreciation for the dedication and accomplishments of staff members, the Employee Recognition Program (ERP) is established to reward and recognize those who demonstrate the professionalism and behaviors consistent with the mission of NMSU and to celebrate achievements that have an exceptional impact on the organization. Departments, colleges and divisions are encourage to develop their own programs to complement established university-level\* programs. This program is exclusive of merit/performance adjustments provided during the annual salary process.

\* Established University-level Employee Recognition Programs:

- Patricia Christmore Faculty Teaching Award
- Fort Bliss Federal Credit Union Award
- Ralph B. Crouch Award
- Donald Roush Award
- Westhafer Award
- Bromilow Staff and Teaching Awards
- University Research Council Award
- Stephen W. and Robert E. Roberts Memorial Staff Award

Darnall Award  
El Paso Energy Award

To ensure fairness and equity, all ERPs must include an application and/or nomination process, defined selection criteria and a process which includes the review and recommendation of a group or a committee. If a donor serves on the committee for which his/her donation is under consideration, the donor must be in the minority of the representation on the committee in order to avoid tax consequences. All employees must have an equal opportunity to compete for bonuses and awards based on the eligibility criteria of an approved program. The Office of Human Resources will review and approve all ERPs, with the exception of awards provided from donated funds. Because of the university's status as a public employer, tax issues and state regulations, rewards are defined as either a **bonus** or an **award**. Exceptions to the following guidelines must be approved by the Office of the Executive Vice President and Provost.

**Bonus:** A bonus is defined as recognition for exceptional performance of duties and responsibilities above and beyond the normal scope of an employee's assigned duties and responsibilities. A bonus is a one-time payment that is paid from instruction and general (I&G) finds, state appropriations and/or any appropriate restricted or unrestricted funding source. The following guidelines apply:

1. A minimum of \$100.00 (net) up to a maximum of \$500.00 (net) may be provided for any individual payment.
2. More than one recipient per department and/or division may receive a bonus depending upon the availability of funding and eligibility.
3. Bonuses paid from restricted/unrestricted funds must comply with the granting agency guidelines.
4. Applicable taxes will be deducted from the gross amount.
5. Bonuses will be processed using a One Time Payment Request.

**Award:** An award is recognition of an exceptional achievement, work ethic and/or service which significantly contributes to an organizational unit. Awards may be paid from any appropriate restricted or unrestricted funding source and/or donated funds. The following guidelines apply:

1. There are no dollar restrictions for awards provided from donated funds.
2. A minimum of \$100.00 (net) up to a maximum of \$500.00 (net) may be provided for any individual recipient of an award paid from restricted/unrestricted funds.
3. More than one recipient per department and/or division may receive an award depending upon the availability of funding and eligibility.
4. Awards paid from restricted/unrestricted funds must comply with the granting agency guidelines.
5. To avoid the appearance of a conflict of interest, services or merchandise (or certificates for such) from vendors or other non-university businesses shall not be solicited or accepted as donations by departments for use as awards. As state employees are not entitled to receive gifts, certificates for such awards shall be called "award certificates".
6. If donated funds are the source of an award, the Office of University Advancement must be consulted prior to the presentation of the award.

7. Awards paid from restricted/unrestricted funds and donated funds are taxable and are processed through a One Time Payment Request.

NMSU encourages nomination of faculty and staff for external (non-NMSU) awards. These awards are subject to the granting agency's criteria and guidelines and will not require a central office review.

### **8.16 Hardship Differential Pay** *[Adopted by Administrative Council 7/11/06; ratified by Board of Regents 9/8/06]*

Hardship differential pay is extra compensation occasionally paid to employees assigned to work for a fixed period of time on a specific project to meet an objective, and under extraordinary working conditions.

- A. Management should attempt to schedule staff and faculty such that excessive overtime and hardship to the employee is avoided; the hardship differential pay addresses those situations where this cannot be avoided.
- B. Extraordinary working conditions include situations when the employee is required to work an inordinate number of hours beyond the normal forty (40) hour work week, or to work under unusually risky and/or hazardous conditions, or to work away from home through a holiday. Such working conditions should not be the norm, and payment of extra compensation is justified due to the significant hardship placed on the employee during the period of time necessary to meet the work objective.
- C. In order to receive hardship differential pay, the appropriate dean, vice president or designee and the Human Resources Office must approve it in writing.
- D. The amount of the hardship differential pay will be a differential over and above the employee's regular salary, to be paid for the duration of the project.
  1. Hardship differential pay will be included in the calculation of overtime compensation for nonexempt employees.
  2. The differential for exempt and faculty employees shall not exceed their regular base rate of pay.

### **8.20 Compensatory Time, Overtime, and Holiday Pay**

Employees Exempt from Overtime: Any individual employed in a bona fide executive, administrative, or exempt capacity, as defined by the Fair Labor Standards Act, may be exempted from compensatory time or payment of overtime. Employees so exempted shall be termed "exempt." All other categories will be termed "nonexempt." Exempt/nonexempt status will be determined by a review of the specific description of duties for the position in question. Positions having like classifications may receive different exempt/nonexempt classifications based on the specific duties and responsibilities required. The Human Resources Office may be contacted for information regarding exempt/nonexempt status on any position.

Overtime Administration: A director/department head may prescribe reasonable periods of overtime work to meet the needs of an operation. A nonexempt employee may only work more than 40 hours a week after having obtained prior approval or instructions from the appropriate supervisor. Complete records of overtime for employees will be maintained in each department or office.

Overtime Payment: Nonexempt employees as defined by the Fair Labor Standards Act (See Chapter 4 Human Resources - General - Hiring Definitions.) are eligible to be compensated or given compensatory

time for overtime. Upon election by the employee, overtime work may be compensated in the form of overtime pay or compensatory time off. Normally, employees who are eligible for payment of overtime will not work in excess of a 40-hour week. To prevent a backlog, workloads should be adjusted by determining needs sufficiently in advance so that temporary help may be hired. The university has no contractual obligation to pay overtime or approve compensatory time. If it becomes necessary for nonexempt employees to work more than 40 hours in a week, the following will apply:

1. All regular, non-exempt, employees shall be paid for all hours worked in excess of forty (40) hours during a work week at the employee's regular rate of pay and at an additional 0.5 times for the overtime hours worked or be paid for all hours worked in excess of forty (40) hours during a work week at the employee's rate of pay and earn comp time at an additional 0.5 times the overtime hours worked.
2. When regular, part-time, employees are required to work more than their normal scheduled hours, but less than 40 hours per week, they will be paid for additional hours (at straight time rates) up to a total of 40 hours in a work week. All time worked in excess of 40 hours is subject to the provisions in #1 above.
3. When temporary employees are required to work more than their normal scheduled hours, but less than 40 hours per week, they will be paid for additional hours (at straight time rates) up to a total of 40 hours in a work week. All time worked in excess of 40 hours shall be paid at the employee's rate of pay and at an additional 0.5 times the overtime hours worked.

Holiday Pay: Any nonexempt employee required to work on one of the official holidays and who does not receive a day off in lieu of the holiday, may be compensated at one and a half times the regular hourly rate in addition to the holiday pay regardless of the number of hours actually worked during the normal work week. If compensatory time, in lieu of payment, is granted for work performed on a holiday, it shall be granted at the rate of one and one half times the number of hours worked regardless of the number of hours actually worked during the normal work week. An employee whose normal work schedule does not include a day designated as an official university holiday may receive a day off in lieu of the holiday during the same work week in which the holiday falls. Payment for a holiday, annual leave, sick leave, administrative leave, compensatory time, or compassionate leave will be considered as hours worked only during a work week in which an official university holiday occurs. Otherwise, in order to be paid at the overtime rate, actual hours worked must be in excess of 40 hours for an employee's work week. If holiday hours and actual hours worked exceed 40 hours in a workweek, calculation of overtime hours will exclude holiday premium hours already compensated.

Overtime Reporting: Nonexempt employees eligible for payment of overtime who are required to work in excess of 40 hours per week will report overtime hours worked on the University Compensation Overtime Report at the end of the pay period. The method for computing overtime is stated on the form.

Compensatory Time (Comp Time): The purpose of compensatory time is to provide an alternative to cash payment of overtime. A nonexempt employee may only work more than 40 hours a week after having obtained prior approval or instructions from the appropriate supervisor.

Upon election by the employee, overtime work may be compensated in the form of compensatory time off. When such form of compensation is elected, the employee shall be paid for all hours worked in excess of forty (40) hours during the work week (hereinafter "overtime hours") at the employee's regular hourly rate of pay and earn comp time at an additional .5 times the overtime hours worked. The university shall designate two (2) opportunities each year for employees' to elect to receive comp time for overtime hours worked, to be effective on January 1 and July 1.

The date to be taken as comp time off shall be scheduled by agreement between the supervisor and the employee. Supervisory approval for the use of comp time shall not be unreasonably withheld. A

supervisor may direct that an employee use accrued comp time.

A maximum of one hundred and twenty (120) hours of comp time may be accrued in a fiscal year. Comp time earned for overtime and reported by the payroll deadline shall be accrued at the next regularly scheduled pay day. An employee may request payment of accrued comp time at any time, which shall then be paid at the next regularly scheduled pay day. All comp time must be used or paid by the end of each fiscal year or prior to transfer or termination.

### **8.20.05 On-Call Pay**

The university may assign an employee to on-call status in accordance with the following:

On-Call Status – an employee is assigned to on-call status in circumstances where the time expended will not constitute compensable hours worked under the Fair Labor Standards Act shall be paid “on call” pay in the amount equal to \$1.00 per hour for each hour of assigned on-call status.

Unrestricted Call-Back Status – On-call pay shall not be paid to employees who are placed on stand by status and who are provided with a pager, cell phone or other electronic device and required to return to work site as soon as practical from the time contact is made, so long as the employee is not required to remain in any specific geographical area or required to return to work within a specific time period. Employees on such status may decline to return to work if contacted, without penalty, discipline or other reprisal if they acknowledge they are not fit to report to duty.

### **8.20.10 Call-Back Pay**

On-Call employees who are required to return to work, or those other employees who are called back to work on a regularly scheduled on-duty day after going off-duty or who are called to work on a regularly scheduled off-duty day, shall be guaranteed a minimum of two (2) hours of pay for the actual time worked at the applicable straight time or overtime rate. For employees called back to work, paid time shall commence at the time the employee begins travel to report for work and ends at the completion of the call-back assignment.

### **8.25 Consulting (Exempt Staff)**

Exempt employees whose full-time duties and responsibilities are similar to those of faculty may be granted consulting privileges subject to prior approval of the appropriate supervisors through the executive vice president and provost. The terms and conditions of these privileges are contained in Chapter 5 - Faculty - Consulting. Other exempt employees who engage in any form of paid consulting, contracting, retail, or wholesale activity not directly related to their university responsibilities normally will do so only on their own time. Outside activities during a normal duty day should have prior approval by a supervisor and be accomplished on an annual leave or compensatory time basis. No paid outside activity may be pursued which would create the appearance of a conflict of interest with university responsibilities or which would reflect unfavorably on the university. Outside activities will not be allowed when they prevent an employee from accomplishing regularly assigned duties.

With prior approval from the appropriate supervisor and cognizant dean/director/vice president, exempt employees may engage in job-related service or professional activities outside the university without taking annual leave (such as serving on an accrediting team or holding a professional office). The activity must be of benefit to the university and support the goals of higher education. University employees working on government contracts that require accounting for all direct and indirect time, and all sick leave, holiday, and annual leave time, will be required to comply with record keeping systems that meet government audit requirements. Full accountability of all paid time is the general norm for this type of organization. University facilities, equipment, personnel or supplies which are not freely

available to the general public will not be used in consulting without proper arrangements for reimbursement. (See also Chapter 5 Faculty - Appointments - Nontenure-Track – Exempt Staff Hired as Part-time Faculty.)

### **8.30 Disciplinary Action/Involuntary Termination**

Inability to Perform Essential Job Functions: A supervisor may, after having obtained the approval of the appropriate dean/vice president and the Human Resources Office, require an employee to be examined by a medical doctor (or other health provider) for the purpose of determining the employee's ability to perform essential job functions. The cost of the examination will be borne by the university. An employee may be terminated if unable to perform the essential job functions of a position.

Absence Without Authorization: A staff employee who is absent from work without proper authorization or notification for a period of 1 working day or if less than 1 working day for more than one occurrence, may be terminated. Such action will be considered as just cause for termination and processed as an involuntary termination. If subsequent investigation and information reveals extenuating circumstances, the employee may use annual leave, sick leave, or leave without pay for the days absent and may be subject to other disciplinary action.

Disciplinary Action (Nonprobationary Regular Employees): The supervisor may request action appropriate to the nature and severity of the offense or unacceptable performance and has the following options available. Items #2, #3, and #4 require prior approval from the Human Resources Office.

1. Oral Reprimand or Warning: Supervisor prepares a memorandum of record for departmental file.
2. Written Reprimand, Warning, or Notification of Unacceptable Performance: Supervisor prepares a memorandum to the employee, obtains approval from the Human Resources Office, and forwards a copy to the Human Resources Office for inclusion in the employee's file.
3. Suspension or Demotion: (See also Termination and Just Cause.) Suspension of exempt employees will be for a minimum of 1 working day within a work week.
4. Involuntary Termination: (See Termination and Just Cause.).

Immediate (Temporary) Removal: The appointing authority may, with approval of the appropriate dean or vice president, and Human Resources Office, immediately remove and place an employee on administrative leave with pay. This action may be taken when it is in the best interest of the university or it is necessary to remove an employee from the work site. Requests to place an employee on involuntary leave without pay may be submitted to the executive vice president and provost through the Human Resources Office.

Termination - Involuntary (Probationary, Temporary and Emergency Hires): Probationary, temporary, occasional and emergency hire employees may be terminated without cause by providing at least 24 hours notice. The termination of any such employee requires the prior approval of the appropriate dean or vice president, human resources director and executive vice president and provost. Probationary, temporary, occasional, or emergency hire employees have no entitlement or expectation to continued employment during or beyond the probationary or appointment period.

Termination - Demotion and Suspension (Involuntary) (Nonprobationary Regular Employees): A supervisor may, after obtaining prior approval of the appropriate dean or vice president, the human resources director and the executive vice president and provost, terminate, demote, or suspend an employee for just cause. All such actions will be submitted to the executive vice president and provost through the Human Resources Office for review and prior approval. Normally, exempt employees will be given at least 10 working days notification of the proposed action. Nonexempt employees will receive

at least 5 working days. However, the supervisor, with prior approval of the cognizant dean or vice president, and Human Resources Office, may immediately remove and place an employee on administrative leave with pay during the notification period. (See Immediate (Temporary) Removal above.) After obtaining the necessary approvals, the supervisor may issue a notice of proposed disciplinary action. The notification will contain the following:

- The type of action being proposed.
- The specific acts resulting in the proposed action.
- The effective date of the proposed action.
- A summary of the information used in support of the proposed action.
- A statement that the employee may respond to the action and allegations in writing or request a review hearing within 2 working days of receipt of the notice of proposed action.
- A statement that if the employee does not respond to the proposed notice or request a review hearing, the proposed action will become final and effective on the proposed date.
- A statement that a post-action grievance may be filed with the Institutional Equity/ADA and Employee Relations Office within 15 working days of receipt of the proposed notice (if the employee does not choose to respond to the notice or request a review hearing) or within 15 working days of receipt of the notice of final determination.

Should an employee respond in writing to the proposed notice and not request a review hearing, the supervisor will consider the employee's response and issue a final determination, after consultation with the Human Resources Office. Should an employee request a review hearing, the immediate supervisor (or designee) of the individual issuing the proposed notice, and a representative of the Human Resources Office, will meet with the employee within 2 working days of the employee's request. The employee may bring a representative to the hearing. If the representative is an attorney, the employee must so inform the human resources representative to allow the university time to arrange for its general counsel to be present at the hearing. The university reserves the right to have the general counsel present at any and all hearings. A final determination will be issued by the immediate supervisor (or designee) of the individual issuing the proposed notice. Time limits specified may be changed should requests be made and/or circumstances warrant a revision.

Just Cause (Nonprobationary Regular Employees): Employees may be terminated, demoted, or suspended for just cause which may be generally described as any conduct, action, or inaction, arising from, connected with, or impacting on the employee's work, whether on or off duty, that is inconsistent with the employee's obligations to the employer; or conduct reflecting a disregard of the employer's interests, policies or procedures. Just cause includes, but is not limited to, inefficiency, unacceptable performance, incompetence, misconduct, negligence, insubordination, or conviction of a felony or misdemeanor under the provisions of the Criminal Offender Employment Act (Section 28-2-1, et seq., NMSA 1978).

Although impossible to cite an all inclusive list of actions which constitute just cause, examples include but are not limited to:

- Falsification of documents.
- Threatening, assaulting, or abusive behavior towards a supervisor, student, employee, guest or customer of the university.
- Sexual harassment of an employee, student, guest or customer of the university on or off campus which may explicitly or implicitly affect an employee's performance or unreasonably interferes with a person's employment or academic endeavors.
- Jeopardizing the safety or health of an employee (including one's self), student, guest or customer of the university.
- Dishonesty or intentional fabrication of events.
- Negligent, incompetent, inefficient or unacceptable performance of duties.

- Willful disregard of reasonable directives or policies or a defiant attitude of noncompliance toward regulations, directives or policies applicable to an employee.
- Conduct that interferes with the efficient operation of the university.
- Inability or unwillingness to perform the duties required of a position.
- Possession or use of alcohol or illicit drugs, reporting to work under their influence, or being under their influence while on the job.
- Possession of drug paraphernalia or stolen property.
- Conviction or admission of a felony or certain misdemeanors.
- Careless, negligent, improper, unauthorized, or malicious use of, or theft of, property, equipment, or funds.
- Abuse of privileges.
- Failure to report for work or to timely report justifiable reason for absence to the department head or immediate supervisor.
- Repeated tardiness or poor attendance.
- Misconduct which adversely affects the interest or reputation of the university or its employees.
- Any repetition of offenses which resulted in a reprimand, warning, demotion, notification of unacceptable performance or suspension.
- Job abandonment.

### **8.35 Grievances (See Chapter 4 Human Resources - General - Appeals.)**

### **8.40 Hiring (See Chapter 4 - Human Resources - General - Hiring.)**

### **8.45 Layoffs and Recall (See also Chapter 4 Human Resources - General - Layoff/Financial Exigency.)**

Layoff, transfer and recall, due to a university wide financial exigency of positions funded from state appropriations as a line item, will be made in accordance with the Financial Exigency Policy contained in the Human Resources - General section: Layoffs/Financial Exigency. Transfer, recall, and termination policy for employees (below the rank of director) who are facing termination for reasons other than a university wide financial exigency shall be as follows:

It is the policy of the university to attempt to transfer any nonprobationary, satisfactorily performing employee who will be laid off as a result of a reduction in force, reorganization, or job elimination. Employees may be transferred to like positions for which they are qualified on the basis of seniority (i.e., service within both the university and the department, along with past work performance) as vacancies occur. Those individuals not transferred by their termination date will be placed on leave without pay in accordance with the policy stated under Benefits - Leaves - Leave Without Pay. The university may recall nonprobationary employees on a seniority basis whenever possible, with those having the most seniority and good work records recalled first. Recall rights are limited to the first 90 calendar days after layoff. The transfer or recall of employees to other positions may result in a different rate of pay, level, and job title. Specific plans for any area which is terminating employees will be prepared at the time of the layoff, reviewed by the director of human resources and approved by the executive vice president and provost. Salary and wage rate will be in accordance with Human Resources - General - Compensation.

This policy is not applicable to positions when wages are derived from external funds or other non-instructional type funding. Departmental layoff plans may be developed and submitted to the executive vice president and provost through the human resources director for these positions, if necessary. All terminations due to a layoff must have the prior approval of the human resources director and executive vice president and provost. Any employee whose position is federally funded, and who is facing involuntary leave due to a temporary federal financial shortfall, may choose to use annual leave or leave

without pay during the required absence. Leave without pay requests should be processed in accordance with Benefits - Leaves - Leave Without Pay.

### **8.50 Performance Evaluation/Probationary Period (See also Chapter 5 Faculty - Deans, Review and Department Heads - Review.)**

Initial Probationary Period (New Regular Employees): The probationary period is an essential part of the employment process and shall be used as an adjustment period for new employees and supervisors. Probationary employees have no entitlement or expectation to continued employment during the probationary period. During the probationary period, a new employee may be terminated with or without cause and without recourse to the pre- or post-action grievance procedures except in cases alleging discrimination. Probationary employees may be terminated by providing at least 24 hours notice after having obtained approvals from the Human Resources Office, the appropriate dean or vice president, and the Office of the Executive Vice President and Provost in accordance with Disciplinary Action in this chapter. A probationary employee may also resign without notice at any time during the probationary period. The initial probationary period is applicable to a new employee in any position to which appointed. The probationary period shall be the first 6 months of service for nonexempt employees and the first 12 months of service for exempt employees. Time served in a temporary, occasional or emergency hire status does not apply towards completion of the initial probationary period.

Probationary Period (Promotion or Transfer) – Exempt Employees Only: Any employee promoted, transferred or reclassified (voluntarily or involuntarily) will serve an additional probationary period. The length of the probationary period shall be the same as defined in the section immediately above. Any employee promoted, transferred or reclassified (voluntarily or involuntarily) may be demoted and or transferred by a supervisor with or without cause and without recourse to the pre- or post-action grievance procedures by providing at least 24 hours notice after having obtained approval of the Human Resources Office and the Office of the Executive Vice President and Provost.

Probationary Period (Adjustment): The director/department head may request an exception to any probationary period. There may be cases in which employees demonstrate exceptional qualities that would permit reduction of the probationary period. Conversely, the type of work and an employee's performance may demonstrate a need for lengthening the period. Variations are normally limited to 3 months for nonexempt and 6 months for exempt employees. Any adjustment should be requested in writing 2 weeks prior to completion of the probationary period, supported by a performance evaluation, and forwarded to the Human Resources Office for consideration.

Probationary Period Evaluation Report (Applicable Only to Regular, Nonexempt Employees): Prior to completion of the probationary period, the supervisor completes the Performance Evaluation Form (See Performance Evaluation.), and forwards it through channels to the Human Resources Office for inclusion in the employee's personnel file. A Personnel Action Form should accompany the evaluation report if the employee is a new hire and was hired at the entry level. Normally evaluations with outstanding marks are reserved for employees who have consistently, over a period of time demonstrated outstanding performance.

Probationary Period Salary Adjustment (Applicable Only to Newly Appointed Regular Nonexempt Employees.): (See Compensation – End of Probation Salary Adjustment.)

Performance Evaluation Completion Schedule: An evaluation should be completed:

- After completion of a probationary period for nonexempt employees (may also be used for the annual evaluation if completed in December, January or February).
- Annually for purposes of allocating merit increases.
- Any time a supervisor considers an evaluation necessary.
- Upon transfer of an employee to a new organizational unit.

Performance Evaluation (Nonexempt Staff):

- Evaluations will be made on the approved Nonexempt Performance Evaluation Form.
- The form will be completed by the immediate supervisor and then reviewed and signed by the appropriate second level supervisor prior to discussion with the employee. The employee will be provided with a copy of the completed form within 10 working days of the supervisor's signature.
- The evaluator should discuss the evaluation with the employee to avoid the possibility of misinterpretation. (This discussion should occur after the reviewer has signed the form.)
- The employee may discuss the rating with the reviewer prior to the evaluation being forwarded to the Human Resources Office or being filed.
- If the employee does not agree with the evaluation and does not want to go through a formal appeal procedure, the employee may prepare an addendum to the evaluation to be placed in the employee's personnel file within 15 working days after receipt of the evaluation form containing all necessary signatures.
- In the event that a supervisor is not able to evaluate due to lack of longevity in the position or lack of knowledge about the employee, the supervisor may designate a responsible official to complete the Performance Evaluation Form. If this is done, the supervisor must co-sign the evaluation form with the designated official.
- The employee's current supervisor is responsible for completing the evaluation process and may consult with previous supervisors of the employee in assigning evaluation scores.

Performance Evaluation (Exempt Staff):

- Each major administrative unit should utilize a form approved by the Human Resources director or the university approved form.
- All exempt employees will be evaluated at least annually. If performance becomes a concern, interim evaluations may be administered.

Performance Evaluation Appeals: (Non-probationary Employees) An employee appeal may be forwarded in writing to the Human Resources director within 15 working days of receipt of the evaluation form containing all necessary signatures. The appeal should state specifically what area(s) of the evaluation are being appealed and why. The Human Resources Office will review the appeal and attempt conciliation. (See Chapter 4 Human Resources – General – Appeals). Performance evaluations with overall ratings of unsatisfactory, needs improvement or does not meet expectations may be appealed using the grievance procedure.)

## **8.55 Promotion and Reclassification (See also Compensation - Rate of Pay for Promotions above, and Career Development.)**

Internal promotion criteria for regular employees includes:

1. The promotion should be within a major organizational unit, such as a college or vice president's area. Employing departments are encouraged to notify all employees in the organizational unit of the promotional opportunity.
2. The salary increase on promotion will be in accordance with the section "Compensation - Rate of Pay for Promotions." Nonexempt promotions of four or more grades and exempt promotions of three or more levels may require advertisement.
3. New employees will not normally be considered for a promotion outside their current department until they have completed their initial probationary period. Requests for exception must have the written release of the current supervisor and approval of the Human Resources Office.

4. The employee must meet the minimum qualifications for the higher level position.
5. An E-Hire Form should be submitted after the Human Resources Office has determined that the employee meets all qualifications for the new position. The employee should be notified only after approval is received from the Human Resources Office.
6. The department that the employee is leaving initiates and forwards an E-Hire Form and leave records to the hiring department.
7. Equal Employment Opportunity/Affirmative Action commitments will be considered during promotions.

Reclassification of Positions: The level and/or grade of positions are determined by the Human Resources Office as authorized by the executive vice president and provost. The Human Resources Office may direct, through the executive vice president and provost, that duties be added, taken away or reassigned from existing positions in order to correspond with currently authorized levels and/or grades.

Nonexempt Staff Positions: A supervisor requesting to make significant changes in the duties and responsibilities of a position may prepare a Position Description Questionnaire detailing the characteristics, duties, responsibilities and minimum qualifications of the position in question. After obtaining the comments and signatures of the employee when appropriate, the department head/director, and the dean/vice president, the supervisor should forward the completed Position Description Questionnaire to the Human Resources Office for a reclassification review. A regular non-probationary employee who has reason to believe a position is misclassified may request a classification review. The Position Description Questionnaire will be sent through channels to the Human Resources Office. Supervisors should comment on the Position Description Questionnaire and forward through channels. Reclassification requests will be considered three times per year. Requests submitted in June, July, August, and September will be reviewed in October and effective in November. Requests submitted in October, November, December, and January will be reviewed in February and effective in March. Requests submitted in February, March, April, and May will be reviewed in June and effective in July. Reclassification requests of new or vacant positions are considered upon submission. The director/department head and/or the employee may appeal the reclassification review decision to the human resources director within 15 working days of receiving notification of the decision. The decision of the human resources director may be appealed within 15 working days to the executive vice president and provost, whose decision is final. A nonexempt reclassification action which results in an upgrade of more than 3 grades is normally advertised except when there is no interim career grade or is specifically exempted by the Human Resources Office. Reclassification of a position does not, however, guarantee promotion of an incumbent employee. If the incumbent does not have the experience, knowledge, skills or ability to perform the responsibilities of the reclassified position, the incumbent will be considered for transfer. When a position is changed to a classification with a lower grade, the incumbent may be considered for transfer to an appropriate vacant position. The employee's probationary status will not change. Reclassification requests to change a position from nonexempt to exempt status may be submitted in accordance with the procedure outlined below for exempt positions.

Exempt Staff Positions: A supervisor requesting to make major changes in level, title, responsibilities, or salary range of an exempt position may submit an exempt Position Description Questionnaire and a request in memorandum form through the Human Resources Office to the executive vice president and provost for review and consideration. A regular exempt non-probationary employee who has reason to believe a position is misclassified may request a classification review. The director/department head and/or the employee may appeal the reclassification review decision to the human resources director within 15 working days of receiving notification of the decision. The decision of the human resources director may be appealed within 15 working days to the executive vice president and provost, whose decision is final.

## **8.60 Resignations**

A nonexempt employee who desires to terminate services with the university should submit a signed resignation statement to the appointing authority 2 weeks prior to the date of termination. Exempt employees should give 30 days notice prior to termination. If the employee is not available to sign or refuses to sign a statement, the supervisor should so note on the Personnel Action Form and forward for processing. The Notice of Employee Separation Form and I.D. card for faculty/staff employees must accompany the Personnel Action Form. All benefit coverages cease at midnight the date of termination. If an employee's separation from the university is less than 5 working days, seniority and other such employment privileges may be reinstated with approval from the human resources director. Employees may not appeal a resignation of voluntary termination, even if the action was in lieu of termination, unless the employee alleges discrimination.

## **8.65 Termination (See Disciplinary Action/Involuntary Termination or Resignations.)**

## **8.70 Transfers**

The university reserves the right to transfer or assign employees throughout the university as work loads and administrative judgment deem necessary. Two appointing authorities may laterally transfer, voluntarily or involuntarily, a nonexempt employee from a position in a classification and grade to another position in the same grade within a major organizational unit, such as a college or division with approval of the human resources director. To cross college or division lines, a request must be made in writing to the human resources director. Exempt employees may be laterally transferred voluntarily or involuntarily throughout the university with prior approval from the human resources director and executive vice president and provost. The employee's education and experience should correspond with those required by the position being transferred to. A salary adjustment will not normally be awarded if the position to which employee is transferred is similar in overall duties and responsibilities. An E-Hire Form, leave records, and performance evaluation form will be submitted after approval for transfer has been obtained. Requests for transfer, initiated by nonexempt employees, will be made on a Transfer Request Form obtained in the Human Resources Office. Each request will be evaluated by the merits of the situation. Employees with overall "needs improvement" or "unsatisfactory" ratings are ineligible for transfer consideration. Employees serving any type of probationary period may not transfer outside of their organizational unit without obtaining a written release from their current supervisor.

## **8.75 Workweek (See also "Comp" Time/Overtime.)**

All nonexempt full-time personnel who are paid an annual salary on a monthly or bi-monthly basis shall be required to work 40 hours per week.