

## **Chapter 4**

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## CHAPTER 4 - HUMAN RESOURCES - GENERAL POLICIES

### 4.05 Appeals/Grievances (See Due Process)

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, gender identity, serious medical condition, national origin, race, religion, sexual orientation, spousal affiliation or veteran status, according to state and federal laws. This dedication extends to recruiting and hiring, promotion and other human resources actions such as compensation, benefits, transfers, layoffs, termination, 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

#### 4.05.10 Appeals/Grievances - Discrimination-Based Staff, Applicable to Applicant and Student Complaints of Discrimination to Include Sexual Harassment

Grievable items do not include basic management rights such as, but not limited to, the right to manage, direct and assign employees, determine staffing patterns, rates of pay and/or tasks to be performed. Any action or complaint commenced in any state or federal agency or court may, at the discretion of the president/executive vice president and provost result in a stay of any pending internal proceeding (grievance, tenure review, appeal, etc.) filed by or on behalf of a student or employee, unless the complainant alleges any form of prohibited discrimination. In that case, the internal proceeding will continue until all administrative remedies are exhausted, without regard to the nature of and/or conclusions of any external proceedings. Upon termination of the external proceeding, except those involving discrimination allegations as described above, the president/executive vice president and provost will review the status of the internal proceeding in the light of the results, if any, of the external proceedings. If, in the president's/executive vice president and provost's opinion, further action is required, the internal proceeding will continue according to policy and procedure. If the president/executive vice president and provost decide no further action is necessary, the internal proceeding will terminate.

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. See below for definition:

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, gender identity, serious medical condition, national origin, race, religion, sexual orientation, 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.

Discrimination Grievance Procedures: [Applicable to all regular non-probationary staff employees; applicants and, students alleging discrimination in the work place, classroom or related activities. Probationary, temporary, occasional, emergency hire employees and applicants may only appeal matters of discrimination through stage two of this procedure. Only performance evaluations with overall ratings of "unsatisfactory," "needs improvement," or "does not meet expectations" may be appealed using this procedure. See section 4.05.40 for faculty discrimination appeals procedures.]

While employees are encouraged to resolve issues through discussion with the immediate supervisor(s), all discrimination matters are to be reported to the Institutional Equity/EEO Office immediately. There may be occasions when disputes may be resolved at the departmental level without direct involvement of the office of Institutional Equity/EEO, however, the Institutional Equity/EEO director is to be consulted to ensure consistency. Employees shall be free to discuss matters with the Institutional Equity/EEO director and file grievances without fear of reprisal.

#### STAGE ONE – Institutional Equity Review

Informal Complaint: The complainant may elect to file an informal complaint by completing the EEO complaint form within 15 working days of occurrence of the grievable item(s). During the informal stage, the complainant may elect not to self identify. The remedy may include seminars, exchange of information, newsletter articles, memorandums, administrative review, or counseling. Informal settings (where the parties are identified) may also include mediation at the departmental level or other direct communication with both parties. If the informal filing does not result in resolution, the complainant may exercise the formal grievance process within 5 working days of completing the informal complaint process.

Formal Grievance: Any person with a sexual harassment or discrimination complaint should (whenever feasible) first approach the person or persons engaging in the inappropriate conduct and indicate that the conduct is unwelcome. If the inappropriate behavior persists, the aggrieved would 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 to the Institutional Equity/EEO director at the O'Loughlin House, 1130 East University Avenue, immediately, regardless of whether or not permission was given by the party subjected to the discrimination. Completion of the EEO Grievance Form is required within 15 working days after the occurrence or within 5 working days following the informal complaint process (unless extenuating circumstances warrant exception). The grievance will be accepted or denied in writing by the Institutional Equity/EEO director (or designee). If denied, the complainant may appeal in writing to the executive vice president and provost (or designee) within 5 working days of receipt of written denial letter. If accepted, the party charged will be provided with a copy of the complaint documents and will be extended 10 working days to respond. The complainant will be provided a copy of the response, and may amend the initial grievance within 2 working days of receiving the response. If amended, the party charged will also be extended 2 working days to provide any additional documentation. The Institutional Equity/EEO director (or designee) will investigate relevant issues, secure appropriate statements, and prepare a report for administrative review. 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 unlawful 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.

Confidentiality Statement: To the extent possible, every effort will be made to safeguard confidentiality, consistent with reporting obligations and the need to investigate promptly and thoroughly.

Disclosure of Documents: All witness statements are the responsibility of the person filing or responding to the grievance(s). Witness statements provided by either complainant or the party charged will be provided to the opposing party at the time the statements are presented to the Institutional Equity/EEO Office or the Employee Relations Office. The Institutional Equity/EEO director may conduct any further investigation deemed appropriate, which may include additional witness statements. The result of that investigation is the work product of the investigator and not subject to disclosure. Documents protected by the Family Educational Rights and Privacy Act (FERPA), Privacy Act of 1974, The New Mexico Public Records Act, etc. will not be subject to disclosure.

#### STAGE TWO - Administrative Review

The executive vice president and provost (or designee) will review the report and render a decision. The determination letter will be transmitted in writing by the Institutional Equity/EEO director (or designee) to the complainant, party charged and appropriate administrators. If the complainant or party charged is not in agreement with the decision, new or additional documentation may be provided through the Institutional Equity/EEO Office to the executive vice president and provost (or designee) within 5 working days of receiving the determination letter. Following the review of the new or additional information, a final decision will be issued from the executive vice president and provost (or designee) within 5 working days of receipt of the information to the complainant and party charged.

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.

[This stage exhausts the internal appeal process available to applicants, students, probationary, and all complaints of discrimination, including sexual harassment, and/or retaliation.]

#### **4.05.11 Appeals/Grievance - Non-Discrimination-Based Staff, Applicable to all Regular Non-Probation Employees**

Hostile Work/Academic Environment: A hostile environment claim may be based on offensive conduct or behavior that is sufficiently severe and/or pervasive to create an abusive work/academic environment or related activities. See below for definition:

Nondiscrimination-Based Harassment: The university prohibits any unlawful practice of harassment in work place, classroom environments, including related activities, which has the effect of creating a "hostile environment" based on disputes arising from nondiscrimination matters. Responsibility for such matters is designated to the appropriate directors, department heads, deans, vice presidents or vice provosts. On the occasion that nondiscrimination harassment is reported or discovered during an investigation by the assistant director of Employee Relations, a referral to the appropriate official may be made for further review and action. Examples of nondiscrimination harassment may include conduct and behavior that is sufficiently severe and/or pervasive to create an abusive work or academic environment. (See section 4.05.10 for discrimination-based harassment)

Grievance Exceptions: Grievable items do not include basic management rights such as, but not limited to, the right to manage, direct and assign employees, determine staffing patterns, rate of pay and/or tasks to be performed. Any action or complaint commenced in any state or federal agency or court (or before any state or federal employee or hearing officer) may, at the discretion of the executive vice president and provost result in a stay of any pending or filed internal proceeding (grievance, appeal, etc.) filed by or on behalf of an employee of the Board of Regents. Upon termination of the external proceeding the Executive vice president and provost will review the status of the internal proceeding in the light of the results of the external proceedings. If, in the Executive vice president and provosts' opinion, further action is required, the internal proceeding may continue in accordance with established procedures. If no further action is deemed necessary, the internal proceeding will cease

Nondiscrimination-Based Grievance Procedures: Employees are encouraged to resolve issues through discussion with the immediate supervisor(s) and may contact the Employee Relations Assistant Director for consultation on nondiscrimination matters at any time. If resolution is not attained, a formal or informal grievance may be filed with the Employee Relations Office. Employees shall be free to discuss matters with the Employee Relations Assistant Director and file grievances without fear of reprisal.

#### STAGE ONE

Informal Complaint: The complainant may elect to pursue an informal complaint by meeting with the Assistant Director of Employee Relations within 15 working days of occurrence of the grievable item. During the informal stage, the complainant may elect not to self identify. The remedy may include seminars, exchange of information, newsletter articles, memorandums, administrative review, or counseling. Informal settings (where the parties are identified) may also include mediation at the departmental level or other direct communication with both parties. If the informal filing does not result in resolution, the complainant may exercise the formal grievance process within 5 working days of completing the informal complaint process.

Formal Grievance: Completion of the Employee Relations Grievance Form is required within 15 working days after the occurrence or within 5 working days following the informal complaint process. The complainant will include the basis of the grievance which identifies specific employment practices and procedures. The grievance will be accepted or denied in writing by the Employee Relations Assistant Director (or designee). If denied, the complainant may appeal in writing to the executive vice president and provost (or designee) within 5 working days of receipt of written denial letter. If accepted, the party charged will be provided with a copy of the complaint documents and will be extended 10 working days to respond. Additional time may be granted on a case-by-case basis by written request. The complainant will be provided a copy of the response, and may amend the initial grievance within 2 working days of receiving the response. If amended, the party charged will also be extended 2 working days to provide any additional documentation. The Employee Relations Assistant Director (or designee) will investigate relevant issues, secure appropriate statements, and prepare a report for administrative review.

Disclosure of Witness Statements: All witness statements are the responsibility of the person filing or responding to the grievance(s). Witness statements provided by either complainant or the party charged must be provided to the opposing party at the time the statements are presented to the Employee Relations Office. The Employee Relations Assistant Director may conduct any further investigation deemed appropriate, which may include additional witness statements. The result of that investigation is the work product of the investigator and not subject to disclosure.

#### STAGE TWO - Administrative Review

The executive vice president and provost (or designee) will review the report provided by the Employee Relations Office and render a decision. The determination letter will be transmitted in writing by the Employee Relations Assistant Director (or designee) to the complainant, party charged, and appropriate administrators. If the complainant or respondent is not in agreement with the decision, new or additional documentation may be provided through the Employee Relations Office to the executive vice president and provost (or designee) within 5 working days of receiving the determination letter. Following the review of the new or additional information, a final decision will be issued from the executive vice president and provost (or designee) within 5 working days of receipt of the information to the complainant and party charged.

STAGE THREE - Board Review: [The Human Resources Board may be convened to address: terminations, suspensions, demotions, and related issues resulting in reduction/loss of wages and/or appeals of overall “unsatisfactory,” “needs improvement,” or “does not meet expectations” performance evaluation ratings for regular non-probationary staff employees.]

If the complainant does not agree with the executive vice president and provost’s decision in STAGE TWO, a request to convene the Human Resources Board may be submitted in writing to the Employee Relations Office within 5 working days of receiving the determination letter or executive vice president and provost’s final letter. The complainant and party charged will be required to provide all documentation to be reviewed by the Human Resources Board according to procedures cited herein. The Human Resources Board will hold a hearing and issue a recommendation to the executive vice president and provost (or designee) within 5 working days of said hearing. Should the Human Resources Board require additional time, the chair will notify the complainant, party charged, and executive vice president and provost. The executive vice president and provost (or designee) will issue a final decision in writing to both complainant and party charged within 5 working days of receiving the Human Resources Board’s recommendation. STAGE THREE concludes the appeal process for non-probationary staff employees at the university.

[BYPASS - If the complainant wishes to bypass STAGES ONE and TWO and go directly to STAGE THREE, a letter requesting a Human Resources Board hearing may be addressed to the Employee Relations Assistant Director (or designee) within 10 working days of the occurrence. In addition to the letter, the complainant will be required to complete the appropriate grievance form and provide supporting documents. These documents will be provided to the party charged, who will prepare a response and submit any supporting documents to the Employee Relations Assistant Director (or designee) within 10 working days of receipt of complainant’s documents. The Employee Relations Assistant Director (or designee) will provide the complainant with a copy of materials submitted by the party charged and provide the Human Resources Board with copies of all appropriate documents.]

#### HUMAN RESOURCES BOARD OPERATING PROCEDURES

The Complainant is Responsible for Providing the Employee Relations Assistant Director (or Designee) with:

1. A written request for a Human Resources Board hearing within 5 working days of completing STAGE TWO or within 10 working days if STAGES ONE and TWO are bypassed.
2. A list of witnesses (by name, title, employer, telephone number, and order of appearance at the hearing). It is the complainant’s responsibility to secure permission from and arrange for attendance of named witnesses prior to submittal.

3. Seven copies of all documentation to be reviewed during the hearing, plus an additional copy for each individual named in #2 above.
4. The name(s) of legal counsel and/or other representative(s) who will be in attendance at the hearing. Legal counsel or representative(s), who are not university employees, may only actively participate in the hearing process for appeals involving termination, demotion, or suspension. Cross examination of witnesses will be permitted through the chair. Any questions for parties charged/complainant(s) may be channeled through the chair, who will determine the relevance and appropriateness of the question.
5. A written request for an open or closed hearing.
  - a. Open Hearing - an open hearing is one in which the public may attend, but may not participate in the hearing. In an open hearing, witnesses may stay only after completing their testimony.
  - b. Closed Hearing - a closed hearing is one in which only the complainant and party charged may be present to offer testimony to the Human Resources Board. In a closed hearing, witnesses will be present only during their testimony.
6. A request for special accommodation(s), if needed.

The Party Charged is Responsible for Providing to the Employee Relations Assistant Director (or Designee) with:

1. A list of witnesses (by name, title, employer, telephone number, and order of appearance at the hearing). It is the responsibility of the parties charged to secure permission from and arrange for attendance of named witnesses prior to submittal.
2. Seven copies of all documentation to be reviewed during the hearing, plus an additional copy for the complainant.
3. The name(s) of legal counsel and/or other representative(s) who will be in attendance at the hearing. Legal counsel or representative(s), who are not university employees, may only actively participate in the hearing process for appeals involving termination, demotion, or suspension. Cross examination of witnesses will be permitted. Parties charged will not be subjected to cross examination.
4. A written request for an open or closed hearing.
5. A request for special accommodation(s), if needed.

The Employee Relations Assistant Director (or Designee) is Responsible for Ensuring that:

1. The Human Resources Board has been notified in writing of the hearing.
2. The parties charged, complainant(s) and Human Resources Board members are advised in writing of the date, time, and location of the hearing.
3. The complainant and party charged are informed in writing of time constraints of 2 hours each to present material, including witness testimony and rebuttal. (Additional time may be considered, if requested).

4. Grievance procedures and exchange of statements are provided to both the complainant and party charged at least 48 hours prior to the hearing.
5. A pre-hearing orientation is provided to the Human Resources Board for purposes of receiving documents, instructions, and appropriate policies and procedures.
6. An agenda is prepared for the hearing and time constraints are monitored.
7. An official tape recording of the hearing is available, upon written request, to the complainant and/or party charged.
8. Reasonable accommodations are made, upon request.

The Chair is Responsible for Ensuring that:

1. An open or closed hearing is stated for the record during the hearing.
2. Instructions at the hearing are recorded for the record.
3. The nature of the charge is clearly understood.
4. All issues presented during testimony are relevant to the charge. It is the chair's prerogative to determine when issues have been clarified and may terminate the process accordingly.
5. Additional documentation (if provided by either party after documents have been submitted) is pertinent and reasonable.
6. Both parties are extended an opportunity for an Executive Session at the end of the Human Resources Board hearing (not recorded). An Executive Session provides the complainant and party charged with an opportunity to present any relevant extenuating or mitigating matters after closing statements, not to exceed 5 minutes each. During an Executive Session, only the voting board members and party requesting Executive Session will be present.

The Human Resources Board is Responsible for Ensuring that:

1. An open or closed hearing is designated after considering the sensitivity of the issues, in conjunction with any specific requests from the complainant or party charged.
2. A conflict of interest situation is called any time a Human Resources Board member's relationship or association (personal or business) with either the complainant or party charged may interfere with the process.
3. A written Human Resources Board recommendation is forwarded to the executive vice president and provost within 5 working days following the hearing.

Nonexempt Human Resources Board: The Nonexempt Human Resources Board members are restricted to two consecutive terms of 3 years each. The Nonexempt Human Resources Board will hear grievances from nonexempt employees only. Representatives include:

- Chair Dean selected by the executive vice president and provost to serve for 3 years. The previous chair will serve as alternate and assume all duties of the chair in case of absence. [Note: The same chair will serve on both nonexempt and exempt boards.]

- Member Nonexempt employee and alternate selected from and by the Advisory Council on Administrative Policy to serve for 3 years.
- Member Nonexempt employee and alternate selected from and by the Institutional Equity/EEO Advisory Committee to serve for 3 years.
- Member Nonexempt employee and alternate appointed by the president to serve for 3 years.
- Member Employee Relations Assistant Director (or designee), permanent, ex officio member.
- Member director of human resource services, permanent, ex officio member.

Exempt Human Resources Board: Exempt Human Resources Board members are restricted to two consecutive terms of 3 years each. The Exempt Human Resources Board will hear grievances from exempt employees only. Representatives include:

- Chair Dean selected by the executive vice president and provost to serve for 3 years. The previous chair will serve as alternate.  
[Note: The same chair will serve on both nonexempt and exempt boards.]
- Member Exempt employee and alternate selected from and by the Advisory Council on Administrative Policy to serve for 3 years.
- Member Exempt employee and alternate selected from and by the Institutional Equity/EEO Advisory Committee to serve for 3 years.
- Member Exempt employee and alternate appointed by the president to serve for 3 years.
- Member Employee Relations Assistant Director (or designee), permanent, ex officio member.
- Member Director of Human Resource Services, permanent, ex officio member.

#### **4.05.20 Appeals - Consulting**

The faculty member may appeal decisions (denial of consulting privileges) to the University Appeals Board.

#### **4.05.30 Appeals - Disability Accommodation (See Appeals - Discrimination 4.05.40 Appeals- Staff 4.05.10)**

#### **4.05.40 Appeals Discrimination – Faculty**

Applicable to all faculty who allege discrimination, to include sexual harassment and disability. The grievance procedures for applicants, students and staff employees are contained in Section 4.05.10 Appeals – Staff and External Applicants. The university is dedicated to providing equal employment opportunities in all areas of occupation without regard to age, ancestry, color, disability, gender, national origin, race, religion, sexual orientation, or veteran status, in accordance with state and federal laws. Employees shall be free to discuss matters with the director of Institutional Equity/EEO and file grievances without fear of reprisal. All discrimination allegations (to include sexual harassment and denial of disability accommodations) are to be reported to the Institutional Equity/EEO Office immediately. [See Grievance Exceptions section.]

#### **PROCEDURES**

Informal Complaint - The complainant may elect to file an informal complaint by completing the Informal Complaint Form within 15 working days of occurrence of the grievable action. During the informal stage, the complainant may elect not to self-identify. The remedy may include seminars (to include the party charged), exchange of information, newsletter articles, memorandums for campus distribution, or documentation for the record only. Informal actions (when the parties are identified) may include mediation, letters, memos, telephone calls, and other direct means of communication. If the informal filing does not result in resolution, the complainant may file a formal grievance.

Formal Grievance - Completion of the EEO Grievance Form is required within 15 working days of the occurrence or following the informal complaint process above. The complainant will specify the basis of the grievance as either discrimination and/or employment practices and procedures. The grievance will be accepted or denied in writing by the Institutional Equity/EEO director (or designee). If denied, the complainant may appeal in writing to the executive vice president and provost (or designee) within 5 working days of receipt of written denial letter. If accepted, the party charged will be provided with a copy of the specific allegations, the name of the complainant, and will be extended 10 working days to respond. The complainant may also have an opportunity to receive a copy of the response (upon request), and amend the initial grievance within 2 working days of receiving the response. If the complaint is amended, the party charged will also be extended 2 working days from receipt of the amendment to provide any additional documentation. Additional time for filing may be granted on a case-by-case basis. The Institutional Equity/EEO director (or designee) will investigate relevant issues, secure appropriate statements, and prepare a formal report for administrative review. The executive vice president and provost (or designee) will review the EEO report and render a decision. The determination letter will be transmitted in writing by the Institutional Equity/EEO director (or designee) to the complainant, party charged, and appropriate administrators. If the complainant or respondent are not in agreement with the decision, new or additional documentation may be provided through the Institutional Equity/EEO Office to the executive vice president and provost (or designee) within 5 working days of receiving the determination letter. Following the review of the new or additional information, a final decision will be issued from the executive vice president and provost (or designee) within 5 working days of receipt of the information to the complainant and party charged. (This stage exhausts the internal appeal process for grievances of discrimination, including sexual harassment.) Sexual harassment is a form of gender discrimination and is subject to the procedures outlined above.

#### **4.05.50 Appeals – Faculty**

This section includes (1) a description of procedures for appealing salary increase/performance evaluations to the Review Board of Faculty Salary Increase/Performance Evaluation; (2) a description of the procedures for appealing violations of procedure or due process regarding promotion/tenure and general administrative actions to the University Appeals Board; and, (3) a description of the procedures for appealing the involuntary termination of a continuous contract or a Temporary Contract During Its Term to the Senior Senator Review Committee. (See also Appeals - Discrimination) Under normal circumstances, employees are encouraged to resolve issues through discussion with the immediate supervisor(s). If resolution is not attained, the employee may appeal to the next level of administration. If resolution is not attained, an informal or formal grievance may be filed with the Office of Institutional Equity/EEO. Employees shall be free to file grievances without fear of reprisal.

Grievance Exceptions: Any action or complaint commenced in any state or federal agency or court may, at the discretion of the president/executive vice president and provost, result in a stay of any pending internal proceeding (grievance, tenure review, appeal, etc.) filed by or on behalf of an employee, unless the complainant alleges any form of prohibited discrimination. In that case, the internal proceeding will continue until all administrative remedies are exhausted, without regard to the nature of and/or conclusions of any external proceeding. Upon termination of the external proceeding, except those involving discrimination allegations, as described above, the president/executive vice president and provost will review the status of the internal proceeding in the light of the results, if any, of the external proceedings. If, in the president's/executive vice president and provost's opinion, further action is required, the internal proceeding will continue according to policy and procedure. If the president/executive vice president and provost decide that no further action is necessary, the internal proceeding will terminate.

Review Board of Faculty Salary Increase/Performance Evaluation: The Review Board of Faculty Salary Increase/Performance Evaluation hears appeals regarding salary increases and performance evaluation.

Composition of the Review Board: The Review Board of Faculty Salary Increase/Performance Evaluation consists of three elected tenured faculty members and one member of the administration. The faculty members will serve staggered 3-year terms and the administration member will also serve a 3-year term. Three alternate members to the Review Board will also be elected. These will serve staggered 3-year terms as replacements for regular members of equivalent terms, should a regular member be unable to complete the term, and may also be used as replacements when regular members are otherwise unable to serve for a particular case. Nominations for the faculty positions will be through members of the Faculty Senate. The nomination must specify the position for which the nominee will run. (Normally two positions, one Review Board member and one alternate, will be vacated each year.) Elected Review Board members in the faculty positions must be from different colleges. Two or more nominees for the administrative position on the Review Board will be made by the president; nominees will be at the level of department head, assistant dean, or above. Presidential nominations will be submitted after the election results are known in order to assure representation of the various colleges. The presidential nominee receiving the second highest number of votes will serve as alternate in cases involving the administrative member of the Review Board or administrative member's staff. Faculty members of the Review Board will be elected by faculty ballot. The administrative position will be elected by ballot of Faculty Senate members. A plurality of 40 percent of the votes cast will be necessary for election for each position and, if necessary, a runoff election between the nominees with the largest number of votes will be held. A quorum of the Review Board will consist of four members. No member will sit in cases involving that Review Board member or members of that Review Board member's department. In order to avoid actual or perceived conflicts of interest, the chair can excuse any member of the Review Board. The elected faculty Review Board member in the third year of service will serve as chair. The elected faculty Review Board member in the second year of service will serve as chair-elect. The chair-elect will serve as chair in case of absence or disqualification of the chair.

## GRIEVANCE PROCEDURES

A "working day" is defined here and throughout this chapter as Monday through Friday, except for official university holidays.

The faculty member first should seek to resolve a grievance by conferring with the department head and, if necessary, the dean. If the grievance is not resolved through these informal conferences, the following outlines the process for appealing salary/performance evaluation through the Review Board of Faculty Salary Increase/Performance Evaluation. If circumstances warrant, the chair or the executive vice president and provost may extend specified time limits upon the written request of any party. The opposite party will be given an opportunity to comment on such a request before a decision is made.

STEP ONE - Filing: Within 10 working days of notification of an administrative action, a faculty member may present in writing to the department head or appropriate administrator a memo with the subject line "Grievance," containing a comprehensive rationale for the grievance, including the basis for the grievance and the remedy requested.

STEP TWO - Administrative Review: Within 10 working days of receipt of the grievance, the department head/appropriate administrator will meet with, the dean or appropriate administrator, the chair of the Review Board of Faculty Salary Increase/Performance Evaluation, and the appellant, in an attempt to settle the grievance. Within 5 working days of this meeting, the dean or appropriate administrator will reply in writing to the appellant, with copies to the department head, chair of the

Review Board, and the executive vice president and provost, describing the action taken, if any, to adjust the matter.

STEP THREE - Referral to Review Board of Faculty Salary Increase/Performance Evaluation: If the grievance is not resolved by administrative review, the faculty member may initiate a formal appeal within 10 working days by petitioning the chair of the Review Board by memo through the Office of the Executive Vice President and Provost. The faculty member will provide the dean and the chair of the Review Board a copy of this appeal memo. The faculty member will forward to the Office of the Executive Vice President and Provost a copy of the following material:

- Appellant's evaluation form with summary sheet and appendages submitted by the faculty member during the evaluation period.
- Written statements from the department head to the faculty member outlining objectives agreed upon during the evaluation session.
- Memoranda and/or documents submitted by the faculty member, including the comprehensive rationale for the grievance.
- Written recommendations by the department head, deans, or appropriate administrators regarding the appeal.
- Correspondence and recommendations from the administrative review.

Within 5 working days of receipt of the above material, the Office of the Executive Vice President and Provost will provide four copies of all appropriate materials to the chair for distribution to the Review Board. The chair of the Review Board will submit a statement of its findings and recommendations within 10 working days to the executive vice president and provost, along with related correspondence.

STEP FOUR - Hearing: The Review Board meets no more than 20 working days after a petition has been referred to them according to the guidelines specified below. The chair of the review board will submit a statement of its findings and recommendations within 10 working days to the executive vice president and provost, along with related correspondence.

STEP FIVE - Disposition: A final decision by the executive vice president and provost, along with a copy of the Review Board's findings and recommendations, will be issued in writing to the parties involved, with copies of the decision to the members of the Review Board of Faculty Salary Increase/Performance Evaluation, within 10 working days. All documentation, including the executive vice president and provost's decision, will be filed in the Office of the Executive Vice President and Provost.

Review Board Guidelines:

1. The chair of the Review Board will attempt to settle an issue to the satisfaction of the parties involved before pursuing more formal avenues of action.
2. At least 2 working days in advance of the hearing, the chair of the Review Board will distribute to Review Board members and both parties (through the Office of the Executive Vice and Provost) copies of additional notices and communications from either party. The Review Board members will review these materials, along with those noted in STEP THREE above, previous to the hearing.
3. No new written information may be presented in the hearing by either party without the consent of the chair.
4. The chair will be designated the official timer.

Hearing Procedure: The Review Board will begin the hearing no more than 20 working days after a petition has been referred to them. Participants will be members of the Review Board, the appellant,

department head and dean of the college or appropriate administrators, and the graduate dean or designee if the appellant is a member of the graduate faculty, and may include at the option of the appellant one faculty member to assist in the preparation and presentation of the case. Neither administrators nor appellant may be represented at the hearing by legal counsel. The hearing will normally be limited to 1 hour; however, the chair will assure that all parties have an opportunity to present their cases. Therefore, the appellant and administrators should be prepared to make concise statements of their respective positions. Each hearing will consist of the following elements:

Phase 1: All participants will be present. The main spokesperson for the administrators, usually the department head, will explain their rationale. Other administrators, keeping within a time constraint of no more than 15 minutes total time for administrators, may supplement the statement. The appellant's rationale will also be presented within a time constraint of no more than 15 minutes. The next 15 minutes will be devoted to questions and brief statements from administrators and the appellant concerning previous statements.

Phase 2: Members of the Review Board and appellant will be present. Five minutes will be allotted should the appellant choose to make a statement to the Review Board with administrators not present.

Phase 3: Members of the Review Board and administrators will be present. Five minutes will be allotted to the administrators should they choose to make a statement to the Review Board with the appellant not present.

Phase 4: The Review Board will send its recommendation to the executive vice president and provost within 3 working days of the hearing. Within 10 working days, a final written decision will be provided to all participants by the executive vice president and provost. All documentation, including the executive vice president and provost's final decision, will be filed in the Office of the Executive Vice President and Provost.

#### **APPEALS – PROMOTION/TENURE (VIOLATIONS OF PROCEDURE OR DUE PROCESS) AND GENERAL ADMINISTRATIVE ACTIONS**

When a faculty member alleges a violation of policy or due process\* with regard to tenure or promotion, the University Appeals Board, after review by appropriate administrators through the executive vice president and provost's level, convenes to hear such appeals. In addition, administrative actions that a faculty member considers unfair may be referred to the University Appeals Board after normal administrative review. Administrative actions that may be appealed include, but are not limited to: actions concerned with the setting of goals and objectives; course load; assignment and schedules; and credit for service activities and supported and unsupported research. The University Appeals Board does not have jurisdiction over appeals of salary increases and performance evaluations, cases involving dismissal of tenured faculty for cause, discrimination, student grievances and staff employee grievances, or cases involving student discipline. In all instances, the University Appeals Board will attempt to resolve all complaints on an informal basis.

\*The process of promotion and tenure decisions includes peer review. The advisory judgments of departmental and college promotion and tenure committees, department head, dean and executive vice president and provost are not, in themselves, appealable. Under the terms of the Civil Rights Act of 1964, such judgments are reviewable insofar as they may be discriminatory; otherwise, appeals of promotion and tenure decisions may be based only on violations of procedure or due process that this manual provides. (See Promotion, - Promotion and Tenure)

Composition of the University Appeals Board: The University Appeals Board will consist of six tenured faculty members and one member of the administration. The faculty members will serve staggered 3-year terms and the administrative member will also serve a 3-year term. Three alternate faculty members also will be elected to the University Appeals Board. These alternates will serve

staggered 3-year terms as replacements for regular members of equivalent term should those members be unable to complete the term or otherwise be unable to serve for a particular case. Nominations for the faculty positions will be made in writing to the vice chair of the Faculty Senate, and accompanied by a brief description of the nominee's qualifications for the position and agreement to run. The nomination must specify the position for which the nominee will run (normally two positions will be vacated each year). No two University Appeals Board members may be from the same department. Two or more nominees for the administrative position on the University Appeals Board will be made by the president of the university. Nominees may be at the level of department head, assistant dean, or above. Faculty members on the University Appeals Board will be elected by faculty ballot. The administrative member and the alternate administrative member will be elected by secret mail ballot of faculty senators. The administrative nominee receiving the second highest number of votes will serve as alternate administrative University Appeals Board member. In both instances, a plurality of 40 percent of the votes cast will be necessary for election for each position and, if necessary, a runoff election between the two nominees for a given position with the largest number of votes will be held. A quorum of the University Appeals Board will consist of five members. In order to avoid actual or perceived conflict of interest, either party involved in an appeal may request that a particular member be recused. If such a request is made, the University Appeals Board will meet and by majority vote, can recuse any member. In the event the chair of the University Appeals Board is thought to be the member to have the conflict of interest, the chair-elect will call a meeting to determine if the chair will be recused. In any event, no member will sit in cases involving that University Appeals Board member or staff member. The University Appeals Board will annually, no later than March 31, elect a chair and a chair-elect. The chair-elect will serve as chair in case of absence or disqualification of the chair.

Procedures: (Refer to flowchart in Appendix 4-A.) A faculty member with a grievance should first seek to resolve it by conferring with the administrator involved and, if necessary, the supervisor of the administrator involved. If the issue is not resolved through these informal conferences, the following outlines the process for a grievance and appeal to the University Appeals Board. The executive vice president and provost or the chair of the University Appeals Board has discretion to extend specified time limits for administrative or other purposes or upon the written request of any party. The opposite party will be given an opportunity to comment on such a request before a decision is made. The process described below may be terminated at any point if a settlement acceptable to all parties involved is reached or if the appellant withdraws the grievance/appeal.

STEP ONE - Filing: Within 10 working days of notification of an administrative action, the faculty member with a grievance will present in writing to the administrator involved a memo with the subject line "Grievance," containing a comprehensive rationale for the grievance, including the basis for the grievance and the remedy requested. Grievances that occur as a result of an accumulation of acts or actions may be filed at any time, provided the last alleged action occurred within 10 working days. The appellant may consult with the chair of the University Appeals Board to determine the form this memo should take. Copies will be sent to the administrator(s) involved in the grievance and to the chair of the University Appeals Board. If the department head of the appellant is not the administrator involved, then the department head will receive a copy of the grievance and all other relevant documents. The appellant may request that the chair of the University Appeals Board appoint a senior faculty member, not in the appellant's department and not a member of the University Appeals Board, as a mentor who may assist in developing the case through all the steps.

STEP TWO - Initial Review: Within 10 working days of receipt of the grievance, the administrator involved will conduct a meeting of with, the chair of the University Appeals Board, the dean or the immediate supervisor of the administrator involved, and the appellant (and mentor if assigned), in an attempt to settle the grievance. Within 5 working days of this meeting, the administrator involved will reply in writing to the appellant, with a copy to the immediate supervisor of the administrator involved, University Appeals Board chair, and the executive vice president and provost, describing the action taken, if any, to adjust the matter.

STEP THREE – Executive Vice President and Provost's Review: If the grievance is not resolved at the initial review, the appellant may, within 10 working days of notification of the results of the review described in STEP TWO, request a meeting with the executive vice president and provost by memorandum, attaching the original memorandum and responses from the initial review. This meeting should take place within 10 working days of the date of receipt of the memorandum by the Office of the Executive Vice President and Provost. Attendees at this meeting will include the appellant (and mentor if applicable), the chair of the University Appeals Board, and the executive vice president and provost. Within 10 working days of this meeting, the executive vice president and provost will reply in writing to the appellant, describing the action taken, if any, to adjust the matter. The executive vice president and provost will provide copies of this reply to those who participated in the initial review.

STEP FOUR - Referral to University Appeals Board: If the grievance is not resolved by the executive vice president and provost's review, the faculty member may initiate a formal appeal within 15 working days of receipt of the executive vice president and provost's decision by petitioning the chair of the University Appeals Board by memo through the Office of the Executive Vice President and Provost. The faculty member will provide the administrator involved and the chair of the University Appeals Board a copy of this appeal memo. The faculty member will forward to the Office of the Executive Vice President and Provost a copy of all appropriate material, including:

- A memo citing the basis for the grievance, a comprehensive rationale, and the remedy requested.
- A copy of the memorandum originally filed in STEP ONE.
- A copy of all previous correspondence and administrative responses to date.

The Office of the Executive Vice President and Provost will provide seven copies of all materials to the chair for distribution to the University Appeals Board, within 5 working days of receipt of the formal appeal.

STEP FIVE - Investigation: The University Appeals Board will meet within 10 working days after an appeal has been referred to them to determine if the appeal merits further study. At least 2 working days before this meeting, the chair of the University Appeals Board will distribute the appeal to the University Appeals Board members. If the University Appeals Board agrees that the case merits further study, it will conduct an investigation and hearing. The University Appeals Board will review the petition containing the written statement of the grievance, the written administrative response, and other supporting evidence collected. A copy of any written administrative response will be provided to the appellant. The University Appeals Board will consider these written statements as the initial element in its investigation of the appeal.

- If the University Appeals Board decides not to hold an investigation, it will forward its decision directly to the appellant, with copies to the president and all persons involved with the administrative review.
- If the University Appeals Board does agree to investigate the appeal, it will submit, within 10 working days, a copy of the appeal, additional notices, and communications to the party(ies) against whom the grievance is directed with an invitation for them to submit a written reply to the chair of the University Appeals Board within 15 working days. The chair of the University Appeals Board will provide the appellant with a copy of this response. The University Appeals Board will review the appeal containing the written statement of the grievance, the written administrative response(s), and other supporting evidence collected. A copy of any written administrative response will be provided to the appellant. The University Appeals Board will consider these written statements as the initial element in its investigation of the appeal.
- During the investigative phase of an appeal, procedures will be informal, and records will be limited to minutes of University Appeals Board meetings. The University Appeals Board may interview both parties, separately or jointly. The investigation will be completed within 25

working days from receipt of the written reply from the administrator involved. Both parties will have access to all of the investigation results. If an informal settlement of the issue is reached during the investigation, the chair will terminate the investigation and notify the appropriate parties within 10 working days of the settlement.

**STEP SIX - The Formal Hearing:** At the end of the investigative stage, if no settlement has been reached, the chair of the University Appeals Board will call a formal hearing on the appeal. The chair will notify the parties involved in writing at the conclusion of the investigation concerning the time and place of the hearing, the issues to be considered, and provide them with a written report of the investigation results. The formal appeals hearing will be held within 10 working days following this notification.

- The hearing will be limited to specific items identified during the investigation.
- The University Appeals Board will decide if the hearing will be open or closed. A tape recording of the hearing will be preserved in the executive vice president and provost's archives, copies of which will be available to either party upon request.
- The hearings of the University Appeals Board will not be bound by the rules of civil procedure, and any evidence of probative value in determining the issues involved may be admitted. Every possible effort will be made to obtain the most reliable evidence available.
- Each party may bring a representative (e.g., a mentor or other person) to assist in the preparation and presentation of the case. However, neither administration nor the appellant will be represented at this hearing by legal counsel.
- Each party may present witnesses to testify to facts in support of the party's position; however, the statements of these witnesses must be made in the time allocated for the party having the floor. Normally, each party will have a total of 45 minutes in which to present. Upon the completion of formal statements, including presentations of witness testimony by both parties, there will be an opportunity for cross-examination, not to exceed 30 minutes for each party. Finally, each party will have not longer than 10 minutes for a summary statement.

**STEP SEVEN - Decision:** After all statements have been taken, parties and witnesses will be excused. The University Appeals Board will then deliberate and reach its decision. Within 15 working days of the appeals hearing, the chair will submit summary minutes, recommendations and rationale, copies of the tape recordings, and related papers to the president. The recommendations and rationale will include a summary of the University Appeals Board's opinion(s), including any dissenting opinion(s). The chair will also distribute a copy of the findings and recommendations to each party. The chair may, at this time, call a meeting with the president and the University Appeals Board to discuss the decision. Within 10 working days of receipt of these materials, the president will inform, in writing, the University Appeals Board and other appropriate persons of the final decision. Complete documentation, including the president's decision, and rationale if applicable, will be filed in the archives of the executive vice president and provost. If the president rejects the decision of the University Appeals Board,, reasons for the rejection must be provided in writing. A record of the decision of the University Appeals Board, all documentation, and the president's decision will be deposited in the archives of the Faculty Senate. The University Appeals Board will report annually to the Faculty Senate at its September meeting on the number of cases heard in the preceding academic year and the outcome of these cases. [See flowchart in Appendix 4-A.]

#### **SENIOR SENATOR REVIEW COMMITTEE: APPEALS OF INVOLUNTARY TERMINATION OF A CONTINUOUS CONTRACT OR A TEMPORARY CONTRACT DURING ITS TERM**

A faculty member alleging that a continuous contract has been unfairly or unjustifiably terminated or that a temporary contract has been unfairly or unjustifiably terminated is entitled to peer and administrative review. If a hearing is requested, the executive vice president and provost will request the chair of the Faculty Senate to convene the Senior Senator Review Committee.

Composition of the Senior Senator Review Committee: The Senior Senator Review Committee will consist of the senior senators from each of the academic colleges. If one of these is from the same department as the appellant, the senate member of next longest service from the same college will replace that senior senator. If two senators have identical length of service, the person with the longest service at the university will be placed on the Senior Senator Review Committee. The senior member will chair the Senior Senator Review Committee.

When the appellant is a member of a community college faculty, the Senior Senator Review Committee will be composed of the elected Faculty Senate member from each of the community colleges, except that community college in which the appellant is employed, and the senior senator from the campus college which administers the departmental discipline in which the appellant has been serving, and the senior senator from a campus college other than that described above. If two members have identical service on the Faculty Senate, the senator with the longest continuous employment at the university will be placed on the Senior Senator Review Committee. The campus member from the college which administers the departmental discipline in which the appellant has been serving will chair the Senior Senator Review Committee.

When the appellant is a member of the Cooperative Extension Service, the Senior Senator Review Committee will be composed of the two elected Faculty Senate members from the Cooperative Extension Service and four elected Faculty Senate members from four of the six colleges. These four senators will be chosen as follows: from a group of six senior senators, one from each of the academic colleges, the four most senior senators will be chosen. (If two or more senators have the same length of service on the Faculty Senate, the one with the longest continuous employment at the university will be placed on the Senior Senator Review Committee.) The senior senator from the Cooperative Extension Service will chair the Senior Senator Review Committee. In the event that the appellant is a Cooperative Extension Service representative on the Faculty Senate, the appellant will be disqualified from the committee and the above procedure will be carried out, choosing five members instead of four from the six colleges.

A quorum of the Senior Senator Review Committee will consist of six members. In the event a hearing is requested during the summer months, the Senior Senator Review Committee will be composed of the most senior senator available from each college. In the event the elected senators from the community colleges or Cooperative Extension Service are not available to serve, the chair of the Faculty Senate will select replacement(s) from their respective colleges or units.

#### PROCEDURE

The following is an outline of the hearing process. If circumstances warrant, the chair may change specified time limits upon the written request of any party. The chair will give the opposite party opportunity to comment on such a request before making a decision.

STEP ONE - Filing: Within 10 working days of notification of the termination for cause or termination of a temporary contract during its term, a faculty member may file a request in writing to the executive vice president and provost for a hearing before the Senior Senator Review Committee.

STEP TWO - Referral to Senior Senator Review Committee: Within 10 working days of the appellant's request, the executive vice president and provost will direct the chair of the Faculty Senate to convene a Senior Senator Review Committee following the guidelines above.

STEP THREE - Settlement Attempt: The chair of the Senior Senator Review Committee will meet with the parties involved and attempt a settlement. If a settlement is not attained, a hearing will be held within 30 working days, but not less than 15 working days without the consent of the petitioner. A comprehensive rationale for the grievance, including any documentary evidence supporting the allegations of unfair treatment, and the remedy requested must be submitted to the chair of the Senior

Senator Review Committee 5 working days prior to the hearing. Any material from the respondent(s) must also be submitted to the chair of the Senior Senator Review Committee 5 working days prior to the hearing.

STEP FOUR - Hearing: The Senior Senator Review Committee meets according to the hearing guidelines. The chair of the Senior Senator Review Committee will submit a statement of its findings and recommendations to the president along with related correspondence.

STEP FIVE - Disposition: Within 10 working days of receipt of the recommendations of the Senior Senator Review Committee, a final decision by the president, along with a copy of the findings and recommendations of the Senior Senator Review Committee, will be issued in writing to the parties involved, with copies of the decision to the Senior Senator Review Committee. All documentation, including the president's decision, will be filed in the Office of the Executive Vice President and Provost.

Settlement: The chair of the Senior Senator Review Committee will attempt to settle an issue to the satisfaction of all parties before pursuing a formal hearing. If such a settlement is not possible, the Senior Senator Review Committee will then proceed with the hearing.

Hearing Procedure:

1. The chair will notify the petitioner and other appropriate persons in writing the date, time, and location of the hearing. The hearing will be scheduled within 30 working days, but no sooner than 20 working days from the attempted settlement.
2. The hearing will be limited to the specific cause(s) of termination.
3. The Senior Senator Review Committee will decide if the hearing will be open or closed. A tape recording of the hearing will be preserved by the Senior Senator Review Committee, copies of which will be available to either party upon request.
4. The hearings of the Senior Senator Review Committee will not be bound by the rules of civil procedure, and any evidence of probative value in determining the issues involved may be admitted. Every possible effort will be made to obtain the most reliable evidence available.
5. Each party may bring a representative or legal counsel to assist in the preparation and presentation of the case. Both administration and the appellant may be represented at this hearing by legal counsel.
6. Each party may bring witnesses on his or her behalf; however, the statements of these witnesses must be made in the time allocated for the party having the floor.
7. The chair will assure that all parties have an adequate opportunity to present their cases, including witnesses. Upon the completion of formal statements by both parties, there will be an opportunity for cross-examination. Finally, each party may make a summary statement.
8. After all statements have been taken, parties and witnesses will be excused. The Senior Senator Review Committee will then deliberate and reach its decision. Within 15 working days of close of the appeal hearing, the chair of the Senior Senator Review Committee will submit a statement of its findings, its recommendations, the tape recordings, and related papers to the president. Each party will also receive a copy of the findings and recommendations.

Within 10 working days of receipt of these materials, the president will issue a final written decision to the Senior Senator Review Committee and other appropriate persons. All documentation, including the president's decision, will be filed in the Office of the Executive Vice President and Provost.

**4.05.60 Appeals - Intellectual Property (See Intellectual Property below and Appeals - Consulting)**

Decisions of the Intellectual Property Committee may be appealed to the University Appeals Board.

**4.05.70 Appeals - Layoff/Financial Exigency**

Employees who are to be laid off may appeal through faculty processes or through staff processes, as applicable. (See Appeals - Faculty, or Appeals - Staff)

**4.05.80 Appeals – Sick Leave Bank (See Chapter 7 Benefits – Leaves – Sick)**

If application for use of leave is denied, the decision of the human resource services director may be appealed to the executive vice president and provost, whose decision is final.

**4.05.90 Appeals – Student (See *Student Handbook* and current *Undergraduate or Graduate Catalog*)**

**4.10 Children, Employment of**

Normally, employment of children under 16 years of age is prohibited. Consult the Human Resource Services Office for any special considerations. Children under age 18 may not be employed or permitted to labor in any underground mine or quarry or at or about any place where explosives are used.

**4.15 Compensation (See Chapter 5 Faculty - Compensation or Chapter 8 Staff - Compensation)**

**4.20 Discrimination (See Chapter 3 Codes - Discrimination)**

**4.25 Due Process**

Due process opportunities are available to all regular employees. These policies and procedures are designed to provide an objective consideration of employee grievances. Employees are provided peer group representation on review boards and committees in order to ensure fair and impartial hearings of their complaints. Within each appeal procedure, notice is given as to who makes the final decision. These decisions are final and cannot be further appealed within the university structure. The Board of Regents will periodically review these policies but will not hear individual grievances. The appeals procedures are designed to resolve grievances at the lowest level possible. Prior to formal appeal, all parties should exhaust every opportunity to settle the grievance through administrative review at the department or college level.

**4.26 Employee Separation Policy**

When an individual leaves employment with the university, a number of details must be attended to, both by the employee and the employing department. Employees separating from the university

should make arrangements to return all university property in their possession and settle any accounts with the university prior to their separation. Property should be returned when an employee transfers from one department to another department within the university as well. Examples of property that should be returned include, but are not limited to: keys, identification cards, university-issued credit cards, computer hardware and software, cell phones, classroom materials (such as grade books/files, completed exams), sponsored project files, etc. Accounts to be settled may include such things as parking or library fines, tuition and fees, advances or overpays, personal phone calls, and so on. Departing employees may need to make arrangements with the Office of Human Resource Services regarding such things as health insurance and retirement rollovers as well.

Supervisors of employing departments are separately responsible for ensuring that required forms and notifications to Payroll and Human Resources are submitted in a timely manner, and that access to university property and systems is terminated by having combinations changed, canceling computer system access codes, etc. Computer hard drives should also be checked for sensitive information and unlicensed software.

An optional NMSU Separation Checklist is available that employees and employing departments may find helpful in the separation process and can be found at:

<http://www.nmsu.edu/%7Eboffice/forms/PDF%20Files/termchk.pdf>

#### **4.30 Hiring (See *Search Committee Handbook* and Chapter 5 Faculty - Searches) Specific forms and procedures are available through the Human Resources web page.**

The Board of Regents has delegated to the president or to whomever the president delegates, the employment of all faculty, staff, and other university personnel. Although the Board should never actively nor directly participate in the actual hiring of university personnel, with the exception of selection of the president, the Board should always be at liberty to review any particular hiring by the administration to determine whether or not the Board's hiring policies are being followed.

Exempt and Faculty Hiring Procedures: The recruitment, selection, and hiring of exempt employees is accomplished by the employing department with approval of the appropriate director, dean/vice president, or executive vice president and provost, and the Human Resource Services Office. Additional procedures for filling executive and faculty positions are contained in the *Search Committee Handbook*.

Recruitment: If no underutilization exists in the job grouping, positions may be posted for a minimum of 14 calendar days. If underutilization exists, the position is normally posted for 28 calendar days in order to generate an adequate applicant pool. Requests for exception to the 28 day posting may be submitted to the Human Resource Services Office for consideration.

Search Committee Procedures: Procedures to be followed when involving a search committee in the recruitment and selection process are contained in the *Search Committee Handbook* which is available in all departmental offices and the Office of Institutional Equity/EEO.

Dual Career Couples: Dual career couples comprise an increasing percentage of university professionals. To recruit and retain diverse employees, New Mexico State University and the University of Texas at El Paso support efforts to accommodate the needs of dual career couples. Assistance in identifying employment opportunities in the southern New Mexico and El Paso, Texas area is available to aid in family relocation to our communities.

Job Sharing: When two people may be in the same academic department, a job sharing arrangement may be established. Salary and work duties are negotiable between the two people and the department subject to approval by the appropriate college dean and the executive vice president and provost.

Candidates should discuss job sharing with the department head as early as possible in the search process.

**4.30.05 Employment Background Review Policy** *[Adopted by Administrative Council 4/11/06; ratified by Board of Regents 9/8/06]*

In order to create a safe and secure workplace and to ensure that New Mexico State University employees are qualified to perform the duties and responsibilities of the positions they hold, the university has adopted a background review policy.

The Policy as set forth is:

Background reviews, depending upon the position, may include:

- Credential verification (academic degrees certification, professional licenses, etc.)
- Criminal history and identity (Federal, State and Local)
- Employment references
- Consumer credit reports
- Drug testing
- Social Security Number traces
- Motor vehicle driving history

The following employees will be subject to background review:

- All regular employees who are hired, rehired, transferred, promoted, reclassified, or appointed to interim positions. Rank promotions of tenured, tenure track and non-tenure track faculty are not subject to a background review upon promotion.
- University employees competing for vacancies through an external search process.
- University employees changing positions from faculty to academic administrative or to administrative status.
- Graduate assistants, teaching assistants, post doctoral appointments, temporary employees, student employees, volunteers (with the exception of 4-H volunteers) and affiliates with significant responsibilities listed in the NMSU Sensitive Duties Checklist. A background review will be conducted at the initial time of hire. Employees holding positions in any of these categories will not be subjected to another background review unless there is a break in employment of one year or more.

For short-term hires of 30 days or less (no extensions), a waiver may be granted by human resource services. However, the department head/director is responsible for ensuring that the employee does not perform duties listed in the NMSU Sensitive Duties Checklist without adequate safeguards

A signed Candidate Consent and Disclosure Form is required as part of the application process and must be present before any background review may be conducted.

Any background review report that reveals adverse information on an applicant or employee shall not automatically disqualify a candidate for the position being sought or held conditionally pending results of review.

Any material misrepresentation or omission on an application document may be grounds for rejection of the application, termination of employment, or refusal of subsequent employment consideration with the university.

Additional employment reviews may be required by law, regulation, or contract.

Background review information findings are to be regarded as highly confidential and will be released only under conditions consistent with applicable law.

Procedures:

When a department initiates any action requiring a background review, the hiring department will coordinate with Human Resource Services to determine the type(s) of background review(s) to be conducted.

All job postings must contain notice that background reviews will be performed on the finalist. The application packet required of candidates must include a Candidate Consent and Disclosure Form to be considered a complete application. Access the form at [www.NMSU.hr.preempforms](http://www.NMSU.hr.preempforms).

The hiring department is responsible for obtaining the following information on finalists when required for the position:

- Educational credentials – Verify through official transcripts the highest (terminal) degree of final candidates.
- Employment references and past performance - Check and document at least three of the relevant references listed on the application or resume. Verify work dates, job titles, work experience and performance of candidates.
- Professional license or certifications - If a position requires a license or certification(s), such as a licensed practical nurse, contact the responsible licensing board (local or national) to verify and document that the candidate has a current and valid license or include this in your background review request.

Once a finalist is selected, the hiring department will forward to Human Resource Services a completed permission to offer, Employment Background Review Request Form, a copy of the signed Candidate Consent and Disclosure Form, pertinent application materials, and sensitive duties checklist. The Human Resource Services department will work with the hiring department to coordinate the appropriate background reviews.

The Human Resource Services department will coordinate requests to external vendors for the applicable background review checks and will note on the Employment Authorization Form the date the authorization was received and the date the request was made to external vendors. The Human Resource Services department will review all background review reports received.

*Non-Adverse Information Discovery* - If background review reports are non-adverse, the Human Resource Services Department will notify the hiring department that the offer may be finalized or, if the individual is currently working, that the background check has been successfully completed and the hiring process is finalized.

*Adverse Information Discovery* - If the background review reports produce any information that might be considered as a cause for an adverse employment action, Human Resource Services will work with the hiring department, appropriate dean/VP and Office of General Counsel to evaluate the value of the information against the total past employment record and future employment potential. These parties will assess the relevance of the information to job duties, the date of the offense(s), the nature of the offense(s), and the accuracy of the information the individual provided on the employment application. If consensus cannot be reached, the Executive Vice President and Provost (or designee) will make the final decision.

If the information is deemed relevant and prompts the university to consider taking adverse employment action (*i.e.*, denying employment, reassignment, or termination), the Human Resource Services Department, in compliance with Fair Credit Reporting Act (FCRA), is required to forward a

Pre-Adverse Action Notice to the applicant that includes a copy of the individual's background report and a copy of "A Summary of Your Rights Under the Fair Credit Reporting Act." The Pre-Adverse Action Notice will provide the candidate an opportunity to challenge the information provided in the report and take steps to correct inaccuracies or provide explanation. A final employment decision will not be made by the hiring department until all information is gathered and considered, or at such time as the applicant fails to respond as required. A minimum of five days for an applicant to refute, explain or correct the information is required.

The Adverse Action Notice forwarded to the applicant must include:

- The name, address, and phone number of the reporting agency.
- a statement that the agency supplying the report did not make the decision to take the adverse action and cannot give specific reasons for it; and
- a notice of the individual's right to dispute the accuracy or completeness of any information the agency furnished, and the right to receive a free additional consumer report from the agency upon request within 60 days, and to dispute with the reporting agency the accuracy or completeness of any information in a consumer report furnished by the agency.

The Human Resource Services Department will manage and retain employment background review information. Information collected on successful applicants will be stored separately from the official employee files. Information collected on unsuccessful applicants will be stored with the candidates' application materials and retained for three years. Documents related to employment background review information collected by hiring departments will be filed and maintained in the departments and destroyed three years after rejection for unsuccessful candidates or three years after termination or retirement for successful candidates.

All hiring departments should contact the Human Resource Services Department for further assistance if information obtained from a consumer report is to be used to take adverse action against a candidate or employee.

**NMSU BACKGROUND REVIEW - SENSITIVE DUTIES CHECKLIST**

New Mexico State University requires a background review on graduate assistants, teaching assistants, post doctoral appointees and other temporary employees, student employees, volunteers and affiliates that have significant responsibilities listed below:

<b>Item</b>	<b>Description</b>
A	Care, safety and security of people or property (includes sworn public safety officers, childcare workers, camp counselors, etc.)
B	Direct access to, or control over, cash, checks, credit card account information (includes cash handling or credit card acceptance positions)
C	Authority to commit financial resources of the university through purchases or contracts
D	Control over campus-wide or departmental business processes, either through functional roles or systems security access (includes network administrators, system programmers, etc.)
E	Access to detailed personally identifiable information about individuals or organizations associated with NMSU (includes information about volunteers, affiliates, students, staff, alumni, and/or vendors)
F	Possession or access to building master or sub-master keys; access to residences and certain other facilities, particularly laboratories (includes custodial service, locksmith, residential and student services program employees, etc.)
G	Regular operation of university vehicles

Position Being Filled: \_\_\_\_\_

Check items that apply to position:     Item A    Item B    Item C    Item D    Item E    Item F    Item G

Check employment action that applies:     Hire     Transfer     Promotion     Reassigned Duties

Department: \_\_\_\_\_

Department Contact/Title: \_\_\_\_\_

Contact Phone No.: \_\_\_\_\_

#### **4.30.10 Hiring - Definitions (See Appointments - Nontenure Track, Chapter 5)**

Academic Appointment (Main Campus and Community Colleges): Academic appointments are extended to members of the faculty, administrators of academic programs, and individuals appointed to faculty ranks in the Cooperative Extension Service, at the community colleges, and in the University Library. Academic appointments are either regular or temporary as defined below:

Regular: A regular academic appointment is an employment status for an individual in a 9-month or 12-month position, and with an FTE employment of .5 or greater. The position normally is advertised and the individual employed must have formally applied. An E-Hire Form is required. The E-Hire Form may or may not specify an appointment end date. College-rank appointments with appointment end dates may be renewed after appropriate review and approval.

Temporary: A temporary academic appointment is an employment status for an individual hired for a period of time in excess of 30 days, not to exceed 1 year. Advertising is optional (with the exception of visiting faculty), but if used must specify the temporary nature of the position. Eligibility for benefits is limited to the following: ERA, FICA, Worker's Compensation, and Unemployment Compensation. The E-Hire Form, I-9 Form, application/vita and Notice of Separation Form are required. An offer of employment may be extended only after appropriate approvals are obtained. The E-Hire Form must have an appointment end date.

Noncontract Visiting Faculty: The employment period for a visiting faculty member will not exceed 2 years. The position must be advertised. Some visiting faculty may qualify for health insurance.

Staff: The employment period for temporary staff at .50 FTE or greater may not exceed 12 months, but may be extended with appropriate administrative approvals. A temporary nonexempt employee is normally employed at an entry-level salary and will remain at this rate during employment unless specifically exempted by the director of human resource services.

Temporary (Nonfaculty Category): All temporary appointments will terminate within 1 year if at a .50 FTE or greater. Temporary employees hired at less than a .50FTE can be hired each fiscal year by submitting an E-Hire Form and a Notice of Employee Separation Form, attached to the transmittal form. Temporary employees will normally be hired with a termination date of June 30 each year unless it is known that the appointment will end before or extend beyond June 30. The supervisor may establish and fill an temporary position without advertisement. The person hired must meet minimum qualifications for the position and may be appointed by an E-Hire Form. An I-9 Form, employment application, and Notice of Separation Form apply. Temporary employees have no entitlement or expectation to continued employment during or beyond the appointment period. An offer of employment may be extended only after approval has been obtained from the Human Resource Services Office.

Emergency (Faculty and Exempt Staff Only): In the event that an emergency exists which prohibits use of the normal posting, recruitment, and selection procedures, a position may be filled on an emergency basis for a period not to exceed 1 year; however, there must be a strong element of urgency in filling the position. Prior approval must be obtained from the Human Resource Services Office to hire an employee on an emergency basis without advertisement. The position must be advertised sometime during the year, and the incumbent may be an applicant. An E-Hire Form with a termination date, I-9 Form, and application or vita are required. The person hired must meet minimum qualifications for the position and may not normally exceed 1 year of employment in emergency hire status. An employee hired in an emergency hire status is eligible for benefits afforded regular employees, and has no entitlement or expectation to continued employment during or beyond the appointment period. Any employee hired in an emergency status who competes for an advertised position and is selected will serve a probationary period not including time served in an emergency hire status.

#### **4.30.20 Hiring of Individuals Named in Contract (Faculty and Exempt Staff Only)**

Under certain conditions it may be necessary for an employing department to hire an individual named in a grant or contract. With prior approval of the Human Resource Services Office and the executive vice president and provost, a faculty or exempt staff member may be hired with full benefits under the following conditions:

1. The individual is named as principal or co-principal investigator of the grant or contract.
2. The individual named in the grant or contract possesses unique or highly specialized qualifications required by the granting agency in order to carry out the responsibilities required of the grant or contract.
3. The granting agency has approved the award of the grant or contract subject to the appointment of the particular individual named.
4. The university is awarded or assumes the oversight of an existing external workforce.

Under these conditions, waiver of the advertising requirements for regular employment must be requested in writing to the Human Resource Services Office and the Office of the Executive Vice President and Provost. Employment of an individual named in a grant or contract is contingent upon funding of that specific grant or contract and is not transferable to another source of funding.

#### **4.35 Intellectual Property (See Chapter 5 Faculty - Research)**

#### **4.40 Layoff/Financial Exigency (See Chapter 8 Staff Layoff)**

University-Wide Exigency: Should the president believe that the university is threatened by a financial crisis which may justify a declaration of a university wide financial exigency, the president will convene and ask the advice of the Emergency Finance Committee. The composition of this committee will be:

- Senior Vice President for Business, Finance and Human Resources
- Controller
- Faculty member appointed by head of Accounting and Business Computer Systems
- Faculty member appointed by head of Agricultural Economics and Agricultural Business
- Faculty Senate representative to Budget Committee
- Chair of the Faculty Senate

The Emergency Finance Committee will elect its own chair. The Emergency Finance Committee will examine the financial records of the university, explore the options available for preventing an exigency and, if necessary, recommend the declaration of a university wide financial exigency to the president. After receiving the advice of the Emergency Finance Committee, the president will consult with the Board of Regents. The Board, after reviewing the Emergency Finance Committee recommendations, will decide whether to declare a financial exigency. (See also Faculty Senate Review of Proposed Program Elimination or Reorganization.) Once the Board declares a university wide financial exigency, the president will so inform the university community, and will convene and ask the advice of the Emergency Action Committee. The composition of this Emergency Action Committee will be:

- Chair (or designee) from each of the following Faculty Senate standing committees: Long-Range Planning, Faculty Affairs, Scholastic Affairs, University Affairs

- Chair (or designee) from the Advisory Council on Administrative Policy
- Chair and Vice Chair (or designees) from ASNMSU
- Chair (or designee) from the Research Council
- Senior member (or designee) from Group III of the Advisory Council on Administrative Policy
- Senior member (or designee) from Group IV of the Advisory Council on Administrative Policy
- Nonvoting ex officio members will be:

Executive Vice President and Provost  
Senior Vice President for Business, Finance and Human Resources  
Senior Vice President for Planning, Physical Resources and University Relations  
Associate Provost for Academic Affairs and Community Colleges  
Chair of the Faculty Senate  
Director of Human Resource Services

The Emergency Action Committee will elect its own chair. Once convened for an exigency, the voting committee members will continue to serve until the exigency has ended, even though their original office may have been refilled. The president will present the financial records and supporting data for the exigency to the Emergency Action Committee and will ask the managers of appropriate administrative units to prepare plans for achieving their share of the necessary reductions in expenditures. These plans should include a detailed discussion of the probable effects of the actions proposed. The president will present these plans to the Emergency Action Committee and seek the advice of the Emergency Action Committee before making a decision on future action. The Emergency Action Committee will analyze these data and plans, formulate detailed recommendations and report these to the president. After receiving the final recommendations of the Emergency Action Committee, the president will consult with the Board. The Board, after reviewing the Emergency Action Committee recommendations, will determine the procedures to be followed to end the financial exigency. The Emergency Action Committee will also issue periodic reports, and copies of a synopsis of its final recommendations, including estimates of their effects, to the Faculty Senate, the Advisory Council on Administrative Policy, the Research Council and ASNMSU.

Non I&G Unit Exigency: Individual units within the general I&G budget cannot be declared in financial exigency separate from a university wide exigency. However, should the president of the university believe that a financial exigency threatens any individual unit funded by state appropriated line items outside of the main campus I&G, the president will ask the advice of the unit manager and will convene the Emergency Finance Committee and seek its advice. After receiving the advice of the Emergency Finance Committee, the president will consult with the Board. The Board, after receiving the committee report and the recommendation of the president, will decide whether to declare a financial exigency. If the Board declares a unit financial exigency, the president will convene a Unit Emergency Action Committee. The size of each Unit Emergency Action Committee will be determined by the president, but it will be large enough to provide adequate representation for the personnel employed within the unit. Voting members of each Unit Emergency Action Committee shall be members of the unit, appointed by either the Committee on Committees of the Faculty Senate or the Advisory Council on Administrative Policy, depending on the primary functions of the unit, as determined by the president. In addition, the senior vice president for business, finance, and human resources, the chair of the Faculty Senate, the director of the human resource services, or their designees and others as may be appointed by the president, shall serve as nonvoting ex officio members. The Unit Emergency Action Committee shall elect its own chair. The voting members of the Unit Emergency Action Committee shall continue to serve until the exigency has ended. Should a voting member leave the university community, that member will be replaced by appointment by the original appointing body. The unit manager will present a plan for meeting the exigency to the president and the Unit Emergency Action Committee. The Unit Emergency Action Committee will analyze the plan, estimate its possible effects, formulate recommendations, and report to the president and the unit manager. If the president believes that the plan will have a substantial impact on the university as a whole, the president will convene the Emergency Finance Committee and ask its advice

on declaration of a university wide financial exigency. After receiving the final recommendations of the Unit Emergency Action Committee, the president will consult with the Board. The Board, after reviewing the Unit Emergency Action Committee recommendations, will determine the procedures to be followed to end the financial exigency.

Termination of a Financial Exigency: It is the joint responsibility of the president and the Emergency Finance Committee to monitor closely the university's financial situation throughout the duration of the financial exigency. It is the responsibility of the president to inform the university community on a regular basis of the university's financial situation. If the president in consultation with the Emergency Finance Committee should determine that a financial crisis no longer exists, a recommendation that the financial exigency be terminated shall be submitted by the president to the Board of Regents. A state of financial exigency will cease to exist upon its termination by the Board. The president will so inform the university community of the decision of the Board.

Minor Financial Shortfall: In a period of minor financial shortfall in which no financial exigency has been declared, the university may respond on an ad hoc basis the first year. If it seems the financial shortfall might last a second year, the president should consider convening the Emergency Finance Committee during the first year. In such a case, whether or not a financial exigency is declared, planning should begin well before the end of the first year that will entail use of program review information to make decisions for program reductions that could be partially implemented during the second year. If minor financial shortfall continues for 2 or more years, increasing reliance should be placed on planned program reductions.

Policies for Declared Exigency and Minor Financial Shortfall: The following policies will guide the Emergency Action Committee, the unit managers, and the president in their decisions:

General: The primary consideration behind all decisions will be to maintain viable, quality, and logically defensible programs in keeping with the land-grant mission of the university. An attempt will be made to maintain a core university consisting of the historic components necessary for a broad-based liberal education. An appropriate balance among faculty, administrative and support personnel will be maintained. An appropriate balance among teaching, research, and service functions of the university will be maintained. Financially self-supporting units will generally be given priority status.

Human Resources Policies: Prior to any layoffs, personnel will be asked to indicate their desires with respect to early retirement, part-time employment, voluntary resignation, and intra-university transfer. The university shall, to the extent the Board of Regents determines practicable, make a good faith effort to relocate any employee subject to layoff in a suitable vacant position within the university for which that employee is fully qualified. This good faith effort to relocate an employee need not extend beyond the effective date of the layoff. Salary reductions should not be used as a means of meeting financial exigency unless other options have been considered by the Board. When programmatic decisions have been made and faculty within a given program are to be laid off, where the Board so determines, and consistent with program need, nontenure-track faculty will receive lowest priority, followed by tenure-track faculty, then by tenured faculty. Within each of these categories, layoffs will be based on program need, seniority, and performance. Once areas have been identified in which staff employees are at risk because of financial exigency, probationary employees will be considered for layoff first. Other layoffs of staff, if necessary, will be based upon seniority and performance within those job classifications or job titles identified. Specific plans for any area affected by financial exigency will be prepared by the unit manager in accordance with the established university guidelines before any actions are taken. Employees who are to be laid off may appeal. (See Grievances) Following layoffs due to financial exigency, if programmatically defensible, former employees will be considered for rehire prior to new hires for a period to be set by the university administration.

Faculty Senate Review of Proposed Program Elimination or Reorganization: For the purposes of this policy, a program is defined as a department, an undergraduate major, a graduate degree program, or

any other administrative unit composed of or affecting academic personnel, personnel on continuous contract, or tenure-track faculty. A possible result of program review or financial exigency may be the proposal to reorganize and/or eliminate one or more programs. The time constraints imposed upon the implementation of program reorganization or elimination will therefore vary. In this context, program reorganization is meant to involve actions more significant than the transfer or elimination of one or very few positions. Consistent with policies regarding the approval processes for creation of new academic programs or name changes (and considering such time constraints as may be imposed by financial exigency), an opportunity shall be provided for the Faculty Senate to hear the arguments for and/or against proposed program elimination or reorganization. The Faculty Senate will then register a vote of agreement or disagreement to the proposed program elimination or reorganization, and report this result (with rationale and minority reports, if any) to the executive vice president and provost, and the Executive Review Board. After receiving and reviewing all relevant information and reports, the executive vice president and provost will render a decision with respect to program elimination or reorganization, which will be final. Individual employees affected by program elimination or reorganization may appeal decisions concerning their positions according to the relevant policies of this manual.

#### **4.50 Outside Employment and/or Activities (See Chapter 3 Codes of Conduct – Conflict of Interest)**

Employees may not engage in outside business activities while on duty. Violation of this provision may be grounds for involuntary termination. Employees holding a part or full-time “second job” should not allow such employment to interfere with their performance or attendance. If the supervisor can reasonably demonstrate that performance or attendance problems are resulting from outside employment, the supervisor may ask the employee to terminate such employment. If the employee refuses to do so, the employee may be terminated.

#### **4.55 Personnel Records (See Chapter 2 Miscellaneous - University Records)**

#### **4.60 Public Affairs Participation (See Chapter 3 Codes of Conduct - Conflict of Interest)**

The policy of the Board of Regents is that faculty and staff have the same citizens' rights as other people. However, employees seeking elective office or serving in an elective office must not allow campaign and service activities to interfere with university responsibilities. Employees elected to the state legislature will be placed on leave without pay during the term of such office. Any possible conflict of interest shall be reported by the employee or by any other concerned employee to the administration through the appropriate channels. Unresolved issues shall be referred to the appropriate university appeals board. It shall be the responsibility of the employee to report appointment or election to public bodies and/or conflict of interest situations. Such reports shall be sent to the Office of the President. The written notification shall include the type of employment or type of office, the commencing and terminating dates or period of service, and, when applicable, the nature of the conflict of interest situation. The president has discretion to approve requests to serve on international, national, state, and local committees and commissions.

#### **4.65 Security Clearance (Department of Defense)**

Only the following officers have authority and responsibility for negotiation, execution, and administration of Department of Defense contracts: president, executive vice president and provost, vice president for research, graduate studies and international programs, and dean and director of the Physical Science Laboratory, and any regent who qualifies. No other regent, trustee, officer, or director does require, or will require access to any classified information in the possession of the institution, and they will not occupy a position which would enable them to affect adversely the

institution's policies or practices in the performance of classified contracts for the Department of Defense. Any change in the identity or status of the above-named officers/directors will be promptly reported to the cognizant security office. The foregoing will not be modified, amended, or rescinded without prior notice to the United States Government through the cognizant security office.

#### **4.70 Supplemental Employment/Compensation**

Supplemental compensation may be paid to faculty and staff acting in the capacity of a professional/faculty employee for an additional assignment performed during normal university working hours, providing that assignment is (1) clearly outside the scope of that person's regular teaching, research and service responsibilities; and (2) does not interfere with those responsibilities. Such time will be counted against a faculty member's allowed consulting time and must be approved in advance by all cognizant administrators, including the executive vice president and provost. Additional compensation is submitted for approval by the completion of an E-Hire Form. This compensation may be authorized in addition to regular salary for those employees exempt from overtime provisions of the Fair Labor Standards Act and is used to authorize payment for consulting, workshops, etc. Supplemental compensation will not be paid solely on the basis that the salary has been budgeted into the agreement.

##### Supplemental Employment Guidelines:

1. Applicable only to faculty, or those staff acting in the capacity of a professional/faculty employee.
2. Applicable only to employees currently employed during the period when the supplemental compensation was earned.
3. The rate of pay should not exceed the employee's current rate of pay in the employee's primary job assignment. Under those special circumstances where a request exceeds the employees's rate of pay, a special memo of justification approved by the Office of the Executive Vice President and Provost must be attached to the form. Hours worked (a) should not exceed a reasonable percentage of full-time hours (Any percentage greater than 50 percent must be justified in an attached memo.); (b) must be properly documented per grant/contract requirements.
4. Only in unusual cases may an exempt staff and faculty member be paid to work on a grant or contract, as consultants or otherwise, if that effort results in payment in excess of 100 percent FTE unless specifically provided for, as supplemental compensation, in the agreement or approved in writing by the sponsoring agency. For federal grants and contracts, approval will normally be granted only if two conditions exist:
  - The work is across departmental lines or involves a separate or remote location; and
  - The work performed by the employee is in addition to the regular departmental workload.