

STUDENT CODE OF CONDUCT (06/2011)

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I. INTRODUCTION

The following Student Code of Conduct is consistent with that of New Mexico State University (NMSU), but has been adapted for the Grants Campus. Students enrolled at other campuses, including New Mexico State University Las Cruces and campuses originating distance education courses, are encouraged to become familiar with and abide by the code of conduct at those locations. In this Code of Conduct, “New Mexico State University Grants Campus” is synonymous with “New Mexico State University Grants”, “NMSU Grants”, “NMSU G”, “the University”, and “University”.

A. Purpose. The freedom of individuals to inquire, study, evaluate, and gain new understanding and maturity is essential and must be protected against suppression. Dissent plays a vital part in the role of the University. However, freedoms cannot be protected or exercised in a university that lacks order and stability. Students at New Mexico State University Grants have an obligation to uphold the laws of the larger community of which they are a part.

The intent of this Code is to ensure that students at NMSU Grants Campus neither lose their rights nor escape the responsibility of citizenship. While the activities covered by the laws of the larger community and those covered by NMSU Grants’ rules may overlap, it is important to note that the community’s laws and NMSU Grants’ rules operate independently and therefore do not substitute for each other. NMSU Grants may pursue enforcement of its own rules whether or not legal proceedings are underway or in prospect, and may use information from third party sources (such as law enforcement agencies and the courts) to determine whether University rules have been broken.

Membership in the NMSU Grants community does not exempt anyone from local, state, or

federal laws, but rather imposes the additional obligation to abide by all of NMSU Grants' regulations. It is the personal responsibility of every member of the campus community not only to protect his/her own rights, but to respect the rights of others, and to behave in a manner conducive to learning and/or living in an educational environment.

Just as individuals within the community have a responsibility to adhere to a code of prescribed behavior, the institution assumes the obligation of clearly codifying and fairly enforcing the same. New Mexico State University Grants upholds the belief that those who do not conform to established standards set forth in this Code of Conduct must be held accountable for their actions. Therefore, the purpose of the Code of conduct is to inform the student body of the rules and regulations that are essential to the normal operation of this University.

- B. Definition of Student.** For the purpose of application of this Code of Conduct, "student" means any person enrolled at New Mexico State University Grants, which includes distance education classes taught at this campus and any distance education courses originating at this campus. Persons who are not officially enrolled for a particular term but who have a continuing relationship with New Mexico State University Grants are considered "students". Students who violate the Code of Conduct can expect prompt and deliberate adjudication, whether or not they choose to be present, or remain at the University. Furthermore, if a decision has been made within the disciplinary process which impacts a person who is not currently enrolled, he/she still remains subject to the determination upon re-enrollment.
- C. Students'/Student Organizations' Rights and Responsibilities.** By enrolling at New Mexico State University Grants, a student accepts responsibility for compliance with all local, state and federal laws, and University regulations, while retaining the rights guaranteed under the Constitution of the United States. A student or student organization alleged to have engaged in any misconduct shall have the right of due process and appeal as delineated in this Code and it is each student's/student organizations' responsibility to represent themselves in this educational administrative process. This is not a criminal process, and the University is not bound by the rules of evidence normally used in cases brought before the State or Federal judicial systems. The standard of proof will be "preponderance" not "beyond a reasonable doubt." The University expects all students to show respect for the rights of others and for authority, to protect private and public property, to execute contractual obligations, and to take responsibility for their own actions and the actions of their guests.
- D. Student Organizations.** A student organization, its officers and members may be held collectively and individually responsible when violations of this Code, by those associated with the organization, occur and such violations are authorized, encouraged, directed, tolerated, supported by, or committed on behalf of the organization.

II. ADMINISTRATION OF DISCIPLINE

The responsibility of administering the discipline system is delegated by the President of the University to the Vice President for Student Services for non-academic discipline and to the Vice President for Academic Affairs (VPAA) for academic discipline. In turn, these individuals may delegate

authority to other groups or individuals for handling violations of the University Code of Conduct. All activities shall be monitored by a central administrative authority to ensure fairness and consistency. All discipline sanctions imposed campus-wide will be reported to the VPSS for record-keeping purposes.

The VPSS is also the University Discipline Officer and has the responsibility of maintaining all student

records relating to nonacademic student misconduct. The VPAA at NMSU Grants will maintain all student records relating to academic student misconduct. Within this capacity, the VPSS acts as a resource person for administrators, faculty, staff, and students to promote consistency throughout the University community in adjudicating cases of student misconduct. Also, the VPSS shall dispose of any nonacademic violations referred by other University officials.

The University attempts to handle discipline matters at the lowest possible level by recognizing a variety of hearing officers. Each Hearing Officer is a University Official who is an administrator, faculty member or staff member. Hearing Officers adjudicate cases when violations are alleged. The Hearing Officer is authorized to exercise active control over the proceedings in order to elicit relevant information, to avoid needless consumption of time, and to prevent the harassment or intimidation of witnesses.

Disciplinary regulations at New Mexico State University Grants are set forth in writing in order to give students general notice of prohibited conduct. These rules and regulations should be read broadly and are not designed to define prohibited conduct in exhaustive terms. It is recognized by New Mexico State University Grants that students are adults and are expected to obey the law and take personal responsibility for their conduct. A student is therefore subject to two sources of authority, civil-criminal authority and University authority.

Violation of any municipal ordinance, law or regulation of the State of New Mexico, or law or regulation of the United States which may cause harm or endangerment to self or others, or some how compromises the educational mission of the University, may result in disciplinary action. The University does not normally take disciplinary action for off-campus violations, but it retains the right to act in special cases. Disciplinary action imposed by New Mexico State University Grants may precede, and be in addition to, any penalty that might be imposed by an off-campus authority.

When accused of a violation, the student has the right to review the evidence against him or her, but this does not necessarily mean the right to confront a witness. Attorneys will not be allowed to attend or participate in hearings.

The procedures to be followed in matters of academic and nonacademic misconduct differ and are outlined in the following sections. In exceptional cases of academic misconduct, the "procedures for Dealing with Cases which May Result in Expulsion or Degree Revocation" will be followed instead, and are located in the Administrative Policy and Procedures Manual or may be obtained in the Office of the Vice President for Student Success in Las Cruces.

III. ACADEMIC MISCONDUCT

A. Persons and/or groups involved in Academic Discipline Cases

Vice President for Academic Affairs (VPAA): When an academic violation occurs, the VPAA (or a designee) will dispose of any violations referred or appealed to the VPAA's office.

Academic Misconduct Appeals Committee (AMAC): If the need arises an academic appeals committee shall be established, for that particular academic year, consisting of five (5) committee members; two (2) fulltime faculty members, one of whom will serve as chair; one (1) associate faculty member and two (2) students to be nominated by the ASNMSU G, and one (1) alternate. In addition, a representative of the Office of Student Services is invited to serve as an ex-officio, non-voting member of the committee. In some cases, the VPAA may convene the AMAC and solicit its recommendation.

The decision of the VPAA is final and will be reported to all parties concerned within three (3) working days under the general process.

B. Academic Misconduct. Any student found guilty of academic misconduct shall be subject to disciplinary action. Academic misconduct includes, but is not limited to, the following actions:

1. Cheating or knowingly assisting another student in committing an act of cheating or other forms of academic dishonesty;
2. Plagiarism which is using another person's work without acknowledgement, making it appear to be one's own. Any ideas, words, pictures, or other sources must be acknowledged in a citation that gives credit to the source.

This is true no matter where the material comes from, including the internet, other student's work, unpublished materials, or oral sources. Intentional and unintentional instances of plagiarism are considered instances of academic misconduct. It is the responsibility of the student submitting the work in question to know, understand, and comply with this policy. If no citation is given, then borrowing any of the following would be an example of plagiarism:

- An idea or opinion, even when put into one's own words (paraphrase)
- A few well-said words, if these are a unique insight
- Many words, even if one changes most of them
- Materials assembled by others, for instance quotes or a bibliography
- An argument
- A pattern or idea
- Graphs, pictures, or other illustrations facts
- All or part of an existing paper or other resource

This list is not meant to include all possible examples of plagiarism. See the NMSU Library's web page on plagiarism for further examples.

3. Unauthorized possession of examinations, reserve library materials, laboratory materials, or other course-related materials.
4. Unauthorized changing of grades on an examination, in an instructor's grade book, or on a grade report; or unauthorized access to academic computer records.
5. Nondisclosure or misrepresentation filling out an application or other University records in, or for, academic departments of universities. Students who engage in disruptive activities in an academic setting (e.g., classrooms, academic offices or academic buildings) are subject to disciplinary action in accordance with Non Academic Misconduct – all students. Such students are also subject to administrative actions in accordance with the NMSU Graduate and Undergraduate Catalogs.

C. Academic Discipline Process – General Cases

1. **Course or Departmental Level.** For incidents that occur at the course or academic department level, the faculty member or department head must inform the student and the VPAA of the

alleged offense within ten (10) working days of its discovery, and after an investigation and/or conference, the VPAA will take one of the following actions:

- The allegation may be dismissed as unfounded;
 - The allegation may be dismissed for lack of evidence;
 - The student may admit guilt and a sanction will be imposed;
 - The VPAA will determine guilt based on preponderance of the evidence, and a sanction will be imposed.
 - The VPAA will report the decision to the student and to the VPSS.
2. **Other Academic Misconduct.** For those incidents involving academic misconduct not at the course level (e.g., falsification of academic records), the VPAA, or a designee, will serve as the Hearing Officer and will follow the same process as outlined above.
3. **Appeal Process.** Refer to the Special Grievance Policies, Makeup and Procedures of the Academic Misconduct Appeals Committee (AMAC)
- All possible levels of appeal should be exhausted before a case reaches the VPAA. The student must always be told the next level of appeal.
 - A student who wishes to appeal an instructor's decision may do so by writing to the course program manager (VPAA if instructor is also the department head) within five (5) working days. The appropriate hearing officer will consider both sides of the case and report the decision to the student, the course instructor, and the VPAA (where applicable), and the VPSS within ten (10) working days. If extenuating circumstances prevent either party from meeting this time frame, an alternate schedule will be formulated by all parties involved.
 - Either party may appeal a department head's decision to the VPAA. However, a request for a formal hearing need not necessarily be granted. The following points will apply in all cases of appeal:
 1. The appeal must be made in writing to the appropriate appellate person or body within the specified period of time.
 2. The appeal must include the name of the individual making the appeal, the action that is being appealed, the date the action took place, and the grounds for appeal. Appeals must be made on the basis of one or more of the following grounds:
 - a. Procedural or prejudicial error was committed.
 - b. The finding of facts contained in the decision included inaccurate information
 - c. Specific evidence presented at the hearing is objectionable. Reason for the objection must be stated, e.g., why evidence should not be considered.
 - d. Evidence not offered during the hearing is now available. Reason why the evidence was not offered during the hearing must be stated.
 - e. The sanction imposed is excessive or inappropriate. Reasons for believing this must be stated.

3. If warranted, the VPAA shall convene the Academic Misconduct Appeals Committee to solicit its recommendation before making a decision.
 - a. The highest level of appeal for academic misconduct is the NMSU Grants President, whose decision is final.

4. Academic Misconduct Appeals Committee Procedures

- If a decision is made to seek a recommendation from the Academic Misconduct Appeals Committee, refer to the Special Grievance Policies and Procedures.
- The Chair of AMAC, or a designee, will inform all parties of procedures to be followed.

IV. NON-ACADEMIC MISCONDUCT – ALL STUDENTS

A. Persons and/or groups involved in Nonacademic Discipline Cases

1. **Vice President for Student Services [VPSS] (General Responsibilities).** The VPSS will dispose of any nonacademic violations referred by any University officials, and also has responsibility for maintaining all student records relating to nonacademic student misconduct. Within this capacity, the VPSS acts as a resource person for administrators, faculty, staff, and students to promote consistency throughout the University community in adjudicating cases of student misconduct.
2. **University Discipline Committee.** The University Discipline Committee hears non-academic appeals referred to it by the VPSS. The committee shall be composed of four staff and faculty members appointed by the VPAA and three students appointed by the VPSS from a pool of names recommended by the President of the ASNMSU Grants. Three staff and/or faculty members (including one co-chair) and two student members will be required to be present at each hearing. The two staff or faculty members having seniority on the committee will serve as co-chairpersons. A hearing by the University Discipline Committee is an informal procedure at which information is presented in an orderly manner so that the Hearing Committee can reach a fair decision. The Chairperson of the Hearing Committee is in charge of the proceedings at all times and rulings by the Chair are final. The Chair may remove persons, including the appellant's advisor, if that person does not conform to Committee rules and procedures. Complaints regarding persons reported to not be in compliance with hearing proceedings will be filed with the VPSS. It is each student appellant's responsibility to represent him/her in this informal procedure. The student may elect to have an advisor present whose role is solely to advise the student appellant. Advisors may not actively participate (e.g. question, defend or directly respond to any information presented) in the hearing. More detailed guidance for the University Discipline Committee may be obtained and adapted from "Rules and Procedures for the University Discipline Committee" available from the Coordinator of Student Judicial Services in Las Cruces. All University Disciplinary Committee Meetings are closed to the public.

3. **NMSU Grants President (Final Appeal).** Should the decision of the University Discipline Committee be appealed, the appeal must be made in writing to the President and submitted within three (3) working days after receipt of the decision made by the University Discipline Committee. The President, or a designee, will have three (3) working days to review and render a decision. The decision of the President or a designee is final and will be reported to all parties concerned.

B. Nonacademic Misconduct. The following list constitutes violations for students and student organizations are subject to disciplinary action. This list is not designed to be all inclusive, but offers examples of the types of prohibited conduct:

1. Actual or threatened physical injury to any person (including self) on University-owned property or at a University-sponsored or supervised function, or conduct that endangers the health or safety of a person.
2. Engaging in individual or group conduct that is violent (including sexual misconduct, attempted suicide, or threats of either), abusive, indecent, unreasonably loud, or similar disorderly conduct that infringes upon the privacy, rights, or privileges of others or disturbs the peace or the orderly process of education on campus.
3. Unauthorized use, possession, or storage of any weapon or explosive (including fireworks) on University premises or at University sponsored activities.
4. Forgery, counterfeiting, alterations, or misuse of any University record, document, or identification card of a nonacademic nature (e.g., handicapped parking permit or student ID card).
5. Unauthorized entry into or alteration of any University computer records, or violation of Computer Center policies.
6. Reporting the presence of a fire, bomb, explosive or incendiary device on the University campus without good reason to believe the facts reported are true.
7. Unlawful possession, use, distribution, or sale of any narcotic or dangerous drug as defined by the statutes of the State of New Mexico.
8. Theft of, or unwarranted damage to, University property or property of any member of the University community.
9. Failure to comply with the lawful directives of University employees acting within the scope of their duties, including those directives issued by a University administrator to ensure the safety and well-being of students.
10. Entry into, or use of, any building, facility, or room or other University property or grounds without authorized approval. This also includes the unauthorized possession or use of University keys, lock combinations, or other access codes.
11. Participation in illegal gambling activities on University-owned or controlled property or at a function identified with the University.

12. Possession, or consumption, of alcoholic beverages in contradiction of state law and/or University policy.
13. Entering or attempting to enter any athletic contest, dance, social event, or other event without proper credentials for admission (e.g., ticket, identification card, or invitation).
14. Failure to make satisfactory settlement for any debts to the University.
15. Failure to comply with University traffic rules and regulations.
16. Inappropriate Dress is a matter of individual taste and judgment and can vary widely. However, some clothing, and/ or the manner in which it is worn, may be distracting, offensive and/or beyond what is normally considered decent. In cases where dress appears to be distracting, offensive and/or rest outside the parameters of decency, the VPSS, a designee of the VPSS, or any other University official may ask for an immediate rectification. In the absence of a satisfactory response, further action will be taken as outlined in Sections IV and V of this Code of Conduct.

C. **Nonacademic Discipline Process.** All alleged violations of nonacademic rules and regulations contained herein will be referred to the Vice President for Student Services (VPSS) or other Hearing Officers (as appropriate). The following procedures will apply:

1. The hearing officer may consider any documentation submitted, including but not limited to Police or other University reports, and may choose to interview persons who might have information relevant to the case. The student or organization accused of violating the Code of Conduct is responsible for providing any information that would be helpful in supporting a finding of Not Responsible for the alleged violation. The hearing officer will make a reasonable attempt to obtain all relevant information. As a result of an investigation and/or conference with a student or organization representative, one of the following actions may be taken.
 - The allegation may be dismissed as unfounded;
 - The allegation may be dismissed for lack of preponderance and convincing evidence;
 - The student or organization representative may admit guilt and a sanction will be imposed;
 - or
 - The hearing officer will determine guilt, based on clear preponderance and convincing evidence.
2. A student or organization wishing to appeal the decision of the Hearing Officer may do so in writing to the next higher level of authority within the disciplinary system. The accused must always be informed of the next level of appeal by the Hearing Officer. An appeal by the accused must be presented in writing no later than three (3) working days after notification of the decision. All appeals to the University Discipline Committee will be delivered to the President who is the final level of appeal for all nonacademic misconduct.

D. **Appeal Process.** While all members of the University community have the right to appeal, a request for a hearing need not necessarily be granted. The following points will apply in all cases of appeal.

1. The appeal must be made in writing to the appropriate appellate person or body within the

specified period of time.

2. The appeal must include the name of the individual or organization making the appeal, the action that is being appealed, the date the action took place, and the grounds for appeal. Appeals must be made on the basis of one or more of the following grounds:
 - Procedural or prejudicial error was committed.
 - The finding of facts contained in the decision included inaccurate information.
 - Specific evidence presented at the hearing is objectionable. Reason for the objection must be stated, i.e., why evidence should not be considered.
 - Evidence not offered during the hearing is now available. Reason why the evidence was not offered during the hearing must be stated.
 - The sanction imposed is excessive or inappropriate. Reasons for believing this must be stated.
3. Upon review of an appeal, the appellate person or body may uphold, modify, or completely reverse the original decision. A written rationale will be provided and should be in accordance with one or more of the conditions delineated in Section IV-D-2 above.
4. The highest level of appeal for nonacademic misconduct is the President, whose decision is final.

V. ACADEMIC AND NON-ACADEMIC DISCIPLINARY ACTIONS AND SANCTIONS

A. The following list is not designed to be all inclusive, but offers examples of the more severe sanctions that may be imposed upon an individual student for infraction of regulations.

1. **Written warning** is a notice in writing to the student that s/he is in violation or has violated the student code of conduct.
2. **Disciplinary Probation** is a written reprimand for violation of University regulations or local, state, and/or federal laws. Students placed on disciplinary probation are deemed “not in good standing” with the University. The duration of the probationary period, and conditions imposed, shall be in proportion to the seriousness of the misconduct. Duration will be at least 30 days, but may be extended indefinitely. Depending on the circumstances and at the discretion of the Hearing Official(s), additional stipulations may be enforced. These additional stipulations may be, but are not limited to withholding of transcript or degree; suspension of rights and privileges; suspension of eligibility to participate in official extracurricular activities; restitution for damages incurred by the University; referral for counseling and/or participation in an educational program. Students who are assigned to an educational program and do not attend may be charged an administrative fee in accordance with policies developed by the Vice President for Student Services (VPSS).

During the probationary period, reported violations of the Code of Conduct or conditions of the probation will result in further action. This action may include, but is not limited to, extension of the probationary period, the addition of other restrictions or conditions to the probationary agreement, suspension, dismissal, expulsion, and notation on the student’s transcript. Additionally, if a student should have a previous NMSU Grants discipline record it may be

considered in determining appropriate sanctioning for any future code of conduct violations. A student may return to a status of “in good standing” with the University at the conclusion of the probationary period, assuming all conditions have been satisfied.

A student who has been placed on indefinite disciplinary probation, and/or whose probation has been indefinitely noted on the transcript, may petition to have the probation lifted and/or the notation removed from the transcript. This petition will not be acceptable if submitted sooner than one calendar year from the date the probation began. Students must petition to the VPSS who may choose to convene the University Discipline Committee to review the petition and make a recommendation. The decision of the VPSS is final.

3. **Disciplinary Suspension** –is the disenrollment of a student from the University. Suspensions will last a minimum of one full semester. Students may reenter the University at the conclusion of the suspension only by consent of the VPSS in cases of nonacademic misconduct, or the Vice President for Academic Affairs (VPAA) in cases of academic misconduct. A permanent notation of a suspension will be made on the student’s transcript. The Coordinator of Student Judicial Services at NMSU Las Cruces is to be informed and assists with the notation on the transcript.
4. **Dismissal** – is the disenrollment of a student for an indefinite period of time. Students may not reenter the University for at least one year, and then only by consent of the VPSS in cases of nonacademic misconduct, or the VPAA in cases of academic misconduct. A permanent notation of dismissal is placed on the student’s transcript.
5. **Expulsion** –is the disenrollment of a student whereby the student is not eligible for readmission to the University. A permanent notation of expulsion will be placed on the student’s transcript.

B. **Student organizations.** The following are possible sanctions that may be imposed upon a student organization for infraction of regulations:

1. **Written warning** – is a notice in writing to the student organization that it is in violation or has violated the student code of conduct.
2. **Disciplinary Probation** –is a written reprimand to a student organization for violations of University regulations or local, state, and/or federal laws. Organizations placed on disciplinary probation are deemed “not in good standing” with the University. The duration of the probationary period and conditions imposed shall be in proportion to the seriousness of the misconduct. Duration will be at least thirty (30) days, but may be extended indefinitely.

Depending on the circumstances, and at the discretion of the Hearing Official(s), additional stipulations may be enforced. These additional stipulations may be, but are not limited to, suspension of rights and privileges, suspension of eligibility to participate in official extracurricular activities, termination of physical accommodations on the University premises, and restitution for damages incurred by the University.

During the probationary period, reported violations of the Code of Conduct, or conditions of the probation, will result in further action. This action may include, but is not limited to, extension of the probationary period, the addition of other restrictions or conditions to the probationary agreement, or suspension or termination of University recognition. Additionally, if a student organization should have a previous NMSU at Grants discipline record it may be considered in determining appropriate sanctioning for any future code of conduct violations.

The organization may return to the status of “in good standing” with the University at the conclusion of the probationary period, assuming all conditions have been satisfied, and upon gaining approval from the VPSS.

3. **Suspension of University Recognition** . This sanction serves as notification to the organization that its conduct is in violation of University regulations, or local, state, and/or federal laws; and that its charter with the University, along with all privileges afforded a chartered student organization, is being withdrawn for a specified period of time. The suspension will last a minimum of one full calendar year and will take effect immediately upon notification. As with disciplinary probation, additional conditions may be attached and further disciplinary action may result if conditions are not met.

Reinstatement of an organization’s charter can only be granted by the VPSS after the period of suspension when all conditions of the suspension have been met.

4. **Termination of University Recognition.** This sanction serves as notification to the organization that its conduct is in violation of University regulations, or local, state, and/or federal laws, and that its charter with the University, along with all privileges afforded a chartered student organization, is being withdrawn immediately. The organization is not eligible for reinstatement of its charter for a minimum of five (5) years. Reinstatement of an organization’s charter can only be granted by the Vice President for Student Services.

VI. AMMENDMENTS TO THE CODE OF CONDUCT

Recommendations for changes related to the nonacademic discipline process will be referred to the University Discipline Committee through the Vice President for Student Services (VPSS).

Recommendations for changes related to the Academic Discipline process will be referred to the Vice President for Academic Affairs (VPAA). The University Discipline Committee will meet, as needed, to review the Code of Conduct and recommend changes to the VPSS.

VII. STATEMENT OF LIMITATIONS

No student or student organization shall be subject to disciplinary procedures due to alleged violation of University regulations unless procedures are initiated within one year from the time the alleged misconduct occurred, or was made known to the appropriate campus officer (VPAA or VPSS), whichever occurs later.

The one-year period of limitation, as referred here, will apply only while the student is enrolled at the University. If the disciplinary procedures cannot be completed for reasons beyond the control of the University, a time limitation will not be imposed.

VIII. RELATED POLICIES AND PROCEDURES

The following policies and procedures are consistent with that of New Mexico State University (NMSU), but have been adapted for the Grants Campus. Students enrolled at other campuses, including New Mexico State University Las Cruces and campuses originating distance education courses, are encouraged to become familiar with and abide by the policies and procedures related to the code of conduct at those campuses.

A. Alcohol Policy

1. **Statement of Purpose.** The Regents of New Mexico State University recognize that diversity of opinion and freedom of choice are concepts upon which higher education has been established. Inherent within these two basic concepts are the exercise of individual responsibility and making informed decisions on matters related to personal behavior. These are concepts basic to all American freedoms. Within the University setting, faculty, staff and students must demonstrate a mutual respect and commitment to the institution's educational mission while at the same time fostering diversity of opinion, freedom of choice, and responsibility. In this regard, the University respects the right of those of legal age to consume alcohol if they so choose, providing they do so in accordance with this policy and all applicable laws.

This Alcohol Policy shall apply to every function or event, including but not limited to receptions, banquets, dinners, picnics, or any outdoor event, social events, and campus-wide activity sponsored by organizations or individuals associated with New Mexico State University Grants. Off-campus events conducted by University approved organizations are bound by this policy.

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

2. **Permissible Use of Alcohol.** Where permitted under the policy, the use of alcohol shall be considered a privilege and may be allowed only if consistent with local, state, and federal laws and University policy, and only when it does not interfere with the academic atmosphere of the University.
 - At the present time, there are no areas on campus where alcohol consumption is permitted.
 - Selling, either directly or indirectly, of alcoholic beverages on campus is prohibited, except in those University facilities possessing a state alcohol license granted under the authority of the Board of Regents, or where pre-approved by the President (or his/her designee) by event type. The President (or his/her designee) has authorization, at his/her discretion, to grant permission for the serving or sale of alcohol at any other on-campus events. All venues approved for the routine sale of alcoholic beverages must have in place an approved policy for the sale and service of alcoholic beverages.
 - Events occurring on campus involving alcohol must obtain the proper approval/permit. The following shall apply:
 1. Any event involving alcohol must be registered and approved by the University in order to obtain a proper permit.
 2. Student groups, campus organizations and Greek affiliates who wish to host events involving alcohol must have proper policies in place, consistent with University policies and local, state and federal laws, before they will be issued a permit for their event.
 3. Student fees may not be used directly to purchase alcohol. However, in certain cases, student fees may be used to fund events where alcohol may be served, provided the appropriate permits are obtained and applicable policies are adhered to.

4. Permits will be issued by the President (or his/her designee), if the campus is licensed.

5. State law requires that anyone serving alcohol must complete a class and receive a server's permit.

3. **Unacceptable Use of Alcohol.** NMSU discourages the use of alcohol that is inconsistent with local, state and federal laws and University policy. NMSU at Grants recognizes that the illegal use of alcohol interferes with the academic environment of this institution and the personal growth of its students.

- NMSU Grants explicitly prohibits the unlawful use, possession, sale, or distribution of alcohol or controlled substances by all students and employees. Any violation of applicable local, state, and/or federal law is considered to be a violation of this institution's policies.
- Staff and/or students will be disciplined if their use of alcohol threatens to create disorder, public disturbances, danger to themselves or others, or property damage.
- Students who have not yet reached legal age are prohibited from purchasing, using, and/or possessing alcohol.
- Except as outlined by this policy, consumption or possession of alcohol intended for consumption is prohibited on the University campus. Possession of alcohol intended for consumption is permitted for the sole purpose of property delivery to a designated, approved location.
- Open containers of alcohol are prohibited outside of designated areas.
- Kegs, party balls or common containers are not permitted, unless in conjunction with an event approved by the President (or his/her designee).

4. **Alcohol-Related Misconduct**

- Possession of false identification. Students found in possession of or attempting to use false identification in order to procure alcohol will be subject to the fullest force and effect of the consequences outlined in this policy and/or the Student Code of Conduct.
- Alcohol as an aggravating factor to other violations. If alcohol is found to be an aggravating factor in other violations of the Student Code of Conduct and/or local, state and federal laws, the student may be subject to more severe punitive sanctioning.
- Off-campus violations of Student Code of Conduct. The University reserves the right to impose sanctions upon students

and student organizations that violate this policy and/or the Student Code of Conduct, even if such actions occurs off-campus.

5. **Consequences for Violations**

- Students found to be in violation of any of these policies through Student Services will be subject to disciplinary action ranging from Disciplinary Probation in conjunction with educational

sanctioning through Expulsion from the University.

- Students in violation may also be subject to the disciplinary procedures of the Campus President or Vice President for Student Services (VPSS), if applicable.
- Staff or students found to be in violation will also be subject to all local, state and federal laws and nothing in this policy shall be construed to protect staff or students from such actions as local, state and/or federal law enforcement deem appropriate. Similarly, if local, state and/or federal law enforcement entities decide not to pursue action against violators, the University reserves the right to process violations through other means deemed appropriate.
- Staff or students who have not been found to be in violation of any of the policies herein who wish to self-identify and seek confidential help through local Behavioral Health providers will not jeopardize their employment or academic status. This benefit will continue as long as the staff member or student refrains from further alcohol misuse and/or abuse.

6. **Tailgating (Las Cruces).** On days on which a NMSU football game is scheduled at Aggie Memorial Stadium, consumption of alcohol in designated areas is authorized, subject to the restrictions of this policy:

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

If the consumption is a normal part of an academic class, written approval for use must be obtained from the Office of the Provost and the Alcohol Review Committee.

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

B. Drug Free Workplace, Drug Free Schools & Communities Act, And Drug Free Workforce Rules

- 1. Standards of Conduct.** Students of New Mexico State University are considered a valuable asset, and their health and welfare are of serious concern. The University strives to maintain a safe and productive environment free from the influence of illicit drugs and unlawful use of alcohol. As a recipient of federal funds, the University is obligated to inform all students that the unlawful possession, use, or distribution of illicit drugs and alcohol on its property or as part of any of its activities is prohibited, and is a violation of University policy. University property is defined as all lands and buildings under the control of the Board of Regents, New Mexico State University. Students who violate this prohibition will be subject to appropriate disciplinary action, which may include termination of employment at NMSU Grants or expulsion from school. It is also a federal requirement and a University policy that, as a condition of employment, any student will notify his or her immediate supervisor within five (5) days after conviction of a criminal drug offense occurring in the workplace. In addition to the information provided in this Handbook, drug and alcohol policies and sanctions are discussed at New Student Orientation.
- 2. Health Risk.** A chart outlining the risk of physical and/or psychological dependence on controlled substances and the effects of use, overdose, and withdrawal is available from Student Services. The University is required to inform students concerning these health risks.

Alcohol is also a drug, and students need to be aware of the health risks involved in using alcohol. In large doses, alcohol can dull sensation and impair muscular coordination, memory and judgment. Taken in large quantities over a long period of time, alcohol can damage the liver and heart and can cause permanent brain damage. Dependence on alcohol can be psychological when the drinker uses alcohol to escape from stress. A pattern of repeated heavy drinking produces a condition in which the body needs alcohol to function, and can lead to physical dependence.

Alcohol can kill. A large dose consumed at once can interfere with the part of the brain that controls breathing. The respiratory failure which results can bring death. Delirium tremens, the extreme manifestation of alcohol withdrawal, can also cause death. Pregnant women who drink alcohol risk delivering babies stillborn or with serious abnormalities. Approximately half of the deaths from car accidents each year in the United States are related to alcohol abuse.
- 3. Available drug /alcohol counseling, treatment, rehabilitation, and re-entry programs.** Any student who may have a drug or alcohol problem is encouraged to obtain confidential and voluntary counseling and/or treatment. At NMSU Grants, the student may consult with Student Services and obtain a referral. Call (505) 287-6678 to make an appointment with Student Services. Staff will make appropriate Outpatient referrals with the community, county, or region.

Any student who has been dismissed or suspended for drug or alcohol violations and who has evidence of successful rehabilitation may petition for readmission to the University upon recommendation from relevant psychological or psychiatric professionals. Students who voluntarily seek treatment for drug or alcohol violations before disciplinary action, and students who are readmitted to the University after rehabilitation, may be assessed and be referred to an appropriate community resource for counseling
- 4. Disciplinary sanctions for students.** For possible sanctions that may be imposed upon an individual student for violation of the University's alcohol or drug policies, refer to the Student Code of Conduct, Section V.A. Items 1-5.
- 5. Legal Sanctions.** Federal trafficking penalties for methamphetamine, heroin, cocaine, PCP,

LSD, Fentanyl and Fentanyl Analogue vary depending on the quantity of drugs involved and whether the offense is the first or a repeat offense. Prison sentences range from 5 years to life. Fines for trafficking in these drugs range from \$2 to \$8 million

Federal trafficking penalties for marijuana range from 10 years to life imprisonment, depending on the quantity involved and whether the offense is a first or repeat offense. Fines range from \$250,000 to \$8 million.

The New Mexico Legislature has enacted numerous laws concerning possession and trafficking of controlled substances. The most abused controlled substances are: marijuana, cocaine, heroin, LSD, and amphetamines. Fines and prison sentences vary according to the quantity of drugs involved and whether the offense is a first or repeat offense.

Fines for possession of marijuana range from not less than \$50 to \$5,000. Prison sentences range from 15 days to 18 months. The fine for trafficking marijuana is \$5,000; prison sentences for trafficking range from 18 months to 3 years.

The fine for possession of cocaine and heroin is \$5,000 and the prison sentence is 18 months. Fines for trafficking cocaine and heroin range from \$10,000 to \$15,000. Prison sentences for trafficking are 9 years for a first offense and 18 years for a repeat offense.

The fine for possession of LSD and amphetamines is \$1,000 and the prison sentence is up to 1 year. Trafficking in LSD and amphetamines carries a fine \$5,000 and a prison sentence of 3 years.

Alcohol abuse is subject to penalties specified by the Liquor Control Act. A driving while under the influence (DWI) conviction can result in a fine up to \$300, and/or imprisonment up to 7 months, and/or prosecution for vehicular homicide, and/or license revocation and vehicle impoundment.

C. Drug Policies and Programs. The University attempts by various means to provide the University community with a basic knowledge and awareness of drug abuse, and to disseminate the results of current research on the effects of drug use. It continues to explore the availability of outside funding to support these additional activities in drug education, health, and rehabilitation, and its discipline and law enforcement.

1. **Educational Programs.** The University actively encourages students to learn about the physiological, psychological, social, and legal implications of alcohol and drug use and abuse. To facilitate the students' educational process, the University refers students for various services available in the community. To ensure that students receive the best help and information, involved personnel are encouraged to participate in seminars, workshops, and conferences to learn the latest approaches to drug education and the newest information available regarding alcohol/drug use and abuse.

Recognizing that the social environment changes rapidly, the University invites students to offer suggestions pertaining to their needs in the area of drug and alcohol education to the Office of Student Services, (505) 287-6628 or 287-6629.

2. **Discipline and Law Enforcement.** The University recognizes that many behaviors are restricted by state and federal laws. The basic premise of University discipline is to provide regulations for students in keeping with the laws of the State of New Mexico and the United States of America as well as to maintain an environment maximally conducive to education. While the University does not normally take disciplinary action for off-campus violations, it retains the right to act in special cases. With reference to drug violations, an individual

apprehended for drug abuse off-campus is subject to civil proceedings and is not usually addressed through the University discipline system unless the off-campus actions impact the campus community. As a property owner, the University has the right to prohibit behaviors on that property that may not be restricted in other environments. This is especially relevant for housing regulations. Students who reside on University property consent the University housing regulations. As long as they reside in University housing, they are subject to University discipline.

- **Amnesty.** Any student drug user who, prior to apprehension, voluntarily directs a request for rehabilitation to any University official will be referred to the proper rehabilitation agency or medical authorities. The case will be kept strictly confidential, and no disciplinary or criminal action will be taken as long as the student upholds the agreement for rehabilitation and refrains from any other possession or use of illegal substances on-campus.
- **Penalties for Drug Violation**
 1. First offense for usage, possession, or accessory to a drug violation.
 - a. If found guilty, or guilt is admitted (not relating to amnesty as defined above) for a violation of a law of the State of New Mexico or University regulation relating to one ounce or less of marijuana, the penalty may be as much as disciplinary probation or suspension.
 - b. If found guilty, or guilt is admitted (not relating to amnesty as defined above) for violation of a law of the State of New Mexico or University regulation relating to narcotic drugs, marijuana (over one ounce), depressants, or other illegal drugs, the penalty may be as much as disciplinary suspension, dismissal, or expulsion.
 2. If guilt is proven or admitted for selling, processing, delivering, compounding, or dispensing in any manner. Marijuana or any other dangerous narcotic, depressant, stimulant or hallucinogenic drugs, the student will be subject to penalties up to and including expulsion on the first offense.
 3. A student who admits guilt, or is found guilty of a second drug offense, may be subject to penalties up to and including expulsion.
 4. Any student who has been suspended or dismissed for drug violations, and has evidence of successful rehabilitation, may petition for readmission to the University upon recommendation from relevant psychological or psychiatric professionals.
- **Exclusion from Campus.**

Students suspended, dismissed or expelled from the University for drug violations, or those convicted of drug violations off-campus who persist in returning onto campus, will be subject to such legal procedures as deemed necessary to bar such entry, when probable cause of further violations of University regulations can be shown.

D. **Firearms Policy.** The possession and carrying of firearms, loaded or unloaded, is prohibited on all lands under the control of the Board of Regents, New Mexico State University, except in the following cases: Certified New Mexico Peace Officers engaged in the official performance of their

assigned duties, approved experiments and/or projects; transporting of firearms to and from a place of storage; and other approved academic use. All requests, exceptions, and interpretations of this policy will be managed by the City of Grants, Chief of Police.

- E. **Mental Health Policy.** The staff and faculty of New Mexico State University Grants are concerned about the health and well-being of students. Occasionally, students are confronted by illnesses that interfere with their academic progress. In such situations, withdrawal from the University setting may be in the best interest of all concerned.
- F. **Prohibited Access Policy.** The following individuals may be prohibited from entering upon land or buildings owned or used by the Regents of New Mexico State University, its colleges, departments, branches, experiment stations, ranches, and all property owned or occupied by agencies supervised by the Regents:
1. Persons charged with criminal acts against the Regents or NMSU students or employees during the pendency of such criminal charges.
 2. Persons found guilty by a court of competent jurisdiction of criminal acts against the Regents or NMSU students or employees.
 3. Any individual whose presence on-campus constitutes a clear and present danger to the persons, property, or peace of the Regents, or NMSU students, employees or agents (contractors).
 4. Any individual whose presence on-campus, given all attendant circumstances, could reasonably cause injury against the persons or property of the Regents or NMSU students or employees.
 5. Any individual ordered withdrawn under the Medical/Psychiatric Withdrawal Policy of the University. In order to be prohibited from use of University lands and buildings, individuals must be notified in writing of the prohibition by the University President or his/her designee. Notice may be made personally or by certified mail. Individuals so notified shall be immediately barred subject to the right to request a hearing within three (3) days of the service of notification or within six (6) days of the date of mailing the certified letter. Extension of time will be given to the next business day for any day that occurs on a weekend or a holiday as established by New Mexico State University-Grants.

Appeals shall be made by giving a written notice to the University President of intent to appeal. Hearing on the appeal shall be within seven (7) days from the receipt of the notice of appeal. Neither the individual prohibited nor the University shall be represented at the hearing by legal counsel. The hearing need not conform to the strict rules of legal evidence. In the event that the University President or his/her designee reverses the prohibition, the individual shall be immediately entitled to enter upon University land or property. In the event that the University President or his/her designee affirms the decision, the individual's prohibition shall continue. The decision of the University President or his/her designee is final.

Under most circumstances, prohibitions under this policy will be for one year or less. When the prohibition is indefinite, the affected individual may petition for the removal of the prohibition after one calendar year by submitting a written request to the Vice President for Student Services. With respect to individuals convicted of criminal acts against the University, its students, or employees, the one year shall commence to run at the time the individual is

released from incarceration resulting from conviction.

Any violation of such prohibition may result in legal action by the Regents against the individual, including such criminal charges as may be appropriate under the circumstances, including criminal trespass.

G. Restrictive Access Policy. New Mexico State University serves the people of New Mexico through education, research, extension education, and public service and welcomes all within our community. However, in order to establish an appropriate environment and preserve University property for educational purposes, the University reserves the right to restrict access to some of its lands and facilities. Academic spaces are generally used for educational purposes only, and buildings which serve as residences for students are restricted to students, their guests, and appropriate University employees. While some other University facilities and grounds are available to the general public, they must be used according to University rules and regulations. No individual(s), except for those contracted to reside on-campus, shall temporarily or permanently remain overnight on the property of the Regents, or dwell on the property of the Regents, including but not limited to, in motor vehicles, or in temporary or permanent structures, without the specific prior approval of the University President or his/her designee.

Members of the campus community, as well as visitors, are expected to behave in ways that do not interfere with the rights of others to pursue an education or disrupt community living on-campus. Behaviors of any individuals that interfere with, disrupt, impair or obstruct the processes, procedures, or functions of the University, are prohibited. Failure to comply with this policy could subject the individual to warning, probation, removal from the campus, arrest, barring from the campus, or any other sanctions applicable under the Student Code of Conduct, University Personnel Policies, or state or federal laws. Actions taken under this policy will be initiated by the University President or his/her designee whose decision will be final.

H. Sexual Misconduct Policy. New Mexico State University will not tolerate sexual misconduct of any kind as defined herein:

Forced Sexual Contact. Any harmful, insulting or non-consensual verbal or physical contact of a sexual nature with another person (including touching, fondling, exposure, disrobing, etc.) that is accomplished toward another with his/her consent including any such act accomplished by means of actual or implied force, threat, coercion, or helplessness. Forcing or intimidating a person to touch another's intimate parts shall also constitute sexual contact.

Forced Sexual Penetration. Intercourse (vaginal penetration); sodomy (anal penetration); oral copulation (oral-genital contact); or penetration with any object (including a finger), by the use of force, threats, coercion, or by taking advantage of a victim's helplessness.

A student charged with sexual misconduct, including acquaintance or date rape, can be prosecuted under New Mexico criminal statutes and disciplined under the Student Code of Conduct. Even if the law enforcement authorities choose not to prosecute, the University can pursue disciplinary action.

A violation occurs when there is participation in any kind of sexual misconduct by a student individually or in concert with others. Since the University aspires to educate students in order to prevent violations, students should understand that:

1. Forced sexual penetration or other unwanted forced sexual contact is defined as sexual misconduct whether the assailant is a stranger or an acquaintance of the victim.

2. **Alcohol and/or drug use, intoxication, or any impairment of the accused, does not absolve responsibility for sexual misconduct.**
3. **In situations where the victim is incapable of giving consent, or is unable to resist sexual advances due to alcohol/drug use or other impairments, the accused will be held responsible for sexual misconduct.**
4. **Force or coercion is defined as:**
 - The use of physical force or physical violence; or
 - The use of threats, including but not limited to physical threats, abduction, extortion or retaliation directed against the victim or another when the victim believes that there is an ability to execute such threats; or
 - The use of verbal comments or non-verbal behaviors/gestures to intimidate the victim or another when the victim believes that there is a present ability to execute such threats.
5. **Threat is defined as an expression of intention to hurt, destroy, or punish the victim or another.** Where there is cause to believe that the University regulations prohibiting sexual misconduct have been violated, the University will initiate disciplinary action. Accusations of sexual misconduct will be investigated by the VPSS and/or a higher level campus official according to the Code of Conduct. If evidence is available to indicate that a student is guilty of sexual misconduct, or if guilt is admitted, the penalty for such misconduct may be as much as disciplinary suspension, dismissal or expulsion.

I. **Special Grievances Policies**

1. **Student Academic Grievance Policy/ Procedure for Initiating Grievance Complaints.** This procedure has been established to provide a method to resolve undergraduate student grievances at the lowest administrative level in a fair and expeditious manner. For the purpose of this procedure, grievances are limited to alleged violations of university policy or procedures by the university or its employees, disputes with faculty and/or alleged unfair treatment. Usually this method is used to appeal a grade the student feels was not justified. Under no condition should these policies be used when the student has allegedly violated the University Code of Conduct or a contractual agreement, and at no hearing should either party have a lawyer. Any student who believes that he/she has been unjustly treated within the academic process may proceed as far as necessary in the steps detailed below. Should the alleged grievance not involve a faculty member or course, the student is to appeal directly to the program manager in whose area or university the alleged grievance occurred.

Makeup and Procedures of the Academic Misconduct Appeals Committee (AMAC)(Adopted by NMSU Grants Faculty 04.15.2011) **Go to: grants.nmsu.edu for electronic policies and forms.**

Preamble

A student is expected to discuss any disagreement over a grade or allegations of academic misconduct first with the instructor of record and then with the program manager. Only after

failing to reach an amicable settlement can a student file an appeal.

A student may lodge an appeal to the Academic Misconduct Appeals Committee (AMAC) in respect of the following academic decisions: allegations of cheating, plagiarism, unauthorized collaboration, and any other forms of academic dishonesty and deception. A student may also file a grade appeal as well as contest classroom procedures such as failure to follow a course syllabus. Before lodging an appeal, the student should have followed the initial procedure of obtaining signature(s) of the faculty member and program manager.

Filing an Appeal. An appeal must be in writing, must set out the grounds for the appeal and should include supporting material, such as previous correspondence and a description of the actions taken to resolve the matter.

The appeal should be addressed to the Chairperson of the Academic Misconduct Appeals Committee.

Consideration of Appeal. On receipt of a student appeal, the AMAC Chairperson takes the following action:

- Advise the student of the appeals process
- Notify the members of the Appeals Committee of a pending appeal and schedule a hearing within ten (10) working days
- Accept documentation from both sides of the case and provide equal access to the participants within twenty-four (24) hours of the hearing.

Response to Student. On receipt of an appeal, the student will be sent a letter of acknowledgement. Advice concerning the outcome of the appeal will normally be provided within four (4) weeks of receipt of appeal. Students will be notified of any unforeseen delays in finalizing consideration of an appeal.

Makeup of the Committee. The Academic Misconduct Appeals Committee shall be composed of five (5) members. Two members shall be full time faculty, one of whom will serve as the committee's; chairperson: another member will be from the associate faculty. Both full time faculty and associate faculty will each select an alternate in case of schedule conflicts or recusals. The faculty members, who will be chosen at the first fall faculty/associate faculty meeting, will serve staggered three year terms. The final two members will be students nominated by Associated Student Government (ASG) along with an alternate. In addition, a representative of the Office of Student Services is invited to serve as an ex-officio, non-voting member of the committee.

Hearing Procedures. AMAC will establish internal procedures consistent with the Student Code of Conduct. Hearings shall be conducted as follows:

- Hearings shall be conducted within a reasonable time (within 10 working days) after the Committee's receipt of the complaint
- At least one (1) working day prior to the date of the hearing, the parties shall make available to each other and to the Committee a list of their witnesses and a list of the document(s) to be offered at the hearing. In exceptional circumstances, the Committee may allow a party to call witnesses not listed or submit additional documents at the hearing.

The parties have a right to be accompanied by any person as an advisor, excluding legal counsel, who will be permitted to attend, but not directly participate in the proceedings. Hearing procedures are as follows:

- Hearings shall be closed to anyone not directly involved in the hearing
- The hearing, except for Committee deliberations and votes, shall be recorded and a copy made available to any party upon request. Committee deliberations and voting shall take place in closed sessions
- The Committee must have a quorum present to hold a hearing. A quorum consists of three (3) members, including at least one (1) student. If there is more than one hearing in a matter, or if the hearing continues over more than one session, the same three members must be present for all sessions. All findings and recommendations of the Committee shall require a majority vote of the Committee members present at the hearing
- At the hearing, the parties shall have the right to present questions to witnesses through the Committee chair, to present evidence and to call witnesses in their own behalf, in accordance with the Committee's internal procedures
- The Committee shall not be bound by strict rules of legal evidence or procedure and may consider any evidence it deems relevant
- The Committee shall make its findings and recommendations based only on evidence and testimony presented by the parties at the hearing. Committee members shall not conduct their own investigations, rely on prior knowledge of the facts or develop their own evidence
- If the complaining or responding party fails to attend the hearing without good cause, the Committee may proceed with the hearing and take testimony and evidence and report its findings and recommendations on the basis of such testimony and evidence
- The Committee chair shall prepare a written report of the Committee's findings and recommendations and present it to the Vice President for Academic Affairs within ten (10) working days after the conclusion of the hearing.

Actions of the Appeals Committee. Upon considering the student's appeal, the Appeals Committee may take any one of the following actions:

- Dismiss the appeal, upholding the academic decision in its original form
- Uphold the appeal and change the academic decision
- Find that the appeal presented by the appellant constitutes sufficient justification to require additional action to the original academic decision (for example set another examination)
- Request further information from the disputants and set another hearing
- If a majority of the Committee members find, by a preponderance of the evidence, that the responding student committed academic misconduct, the Committee may recommend any behavioral sanction it deems appropriate given the entire circumstances of the case,

including but not limited to a written reprimand, the imposition of an appropriate grade or academic sanction, probation, suspension, or dismissal from the University.

Confidentiality. All documentation relating to student appeals and all AMAC deliberations are confidential and shall be disclosed only to those persons who have a right to the information by virtue of their role in the appeals process.

Appeals Report. The outcome of the Academic Misconduct Appeals Committee's deliberations will be a report setting out the appeal decision, the modifications to the original academic decision where appropriate, and the reasons for the decision. The report is provided to the parties involved, another copy is retained by AMAC, and one copy to the Vice President for Academic Affairs.

Finality of Appeal. Review and Decision by the Vice President for Academic Affairs. The Vice President for Academic Affairs shall consider the documentation submitted to the Committee and the findings and recommendations of the Committee in making a decision. Based upon such review, and without conducting further hearings, the Vice President shall, within ten (10) working days, take one of the following actions:

- Accept the Committee's findings and recommendations
- Return the report to the Committee chair, requesting that the Committee reconvene to reconsider or clarify specific matters, materials, and issues, and forward to the vice president, or designee, a second report of its findings and recommendations relating to the specific matters referred by the vice president for further consideration
- Reject all or parts of the Committee's findings and recommendations, stating reasons and actions to be taken therefore. The Vice President may impose a greater or lesser sanction than recommended by the Committee.

Written notification of the Vice President's decision shall be communicated to the parties concerned within ten (10) working days of receipt of the recommendation. The Vice President's decision is final unless appealed to the President within ten (10) working days of receipt of the decision.

Appeal to President. Within ten (10) working days of receipt of the Vice President's decision, any party may appeal the decision by filing a written notice of appeal with the President and delivering a copy to the other party. The other party may file a response to the appeal with the President within five (5) working days of receipt of the appeal.

In the case of an appeal. The President shall consider the appeal and the response and may solicit whatever counsel and advice the President deems appropriate to arrive at a final decision. After receiving the appeal and response, the President shall, within ten (10) working days take one of the following actions:

- Accept the decision of the Vice President for Academic Affairs
- Return the report to the Vice President requesting that he/she clarify specific matters, materials, and issues, and forward to the President a second report of his/her decision relating to the specific matters referred by the President for further explanation

- Reject all or parts of the Vice President's decision, stating reasons and actions for either imposing a greater or lesser sanction than determined by the Vice President
- Written notification of the President's decision and the basis for that decision shall be communicated to the parties concerned within ten (10) working days after receipt of the appeal, or within twenty (20) working days after receipt of the appeal if an ad hoc committee is formed
- The decision of the President is final.

Note: Any faculty member can submit proposals for amending these procedures or AMAC makeup through a letter to AMAC and a vote of 60% at the next faculty meeting. The AMAC can amend hearing procedures only through a vote of 4 out of 5 members.

2. **Student non-academic grievance policy.** Any student, who believes that he/she has been treated unjustly in a non-academic area, not involving a contractual agreement, can file a grievance as long as the Code of Conduct has not been violated. The purpose of this policy is to allow the parties to resolve grievances at the lowest administrative level in a fair and expeditious manner without the involvement of lawyers. A grievance must be filed no later than thirty (30) days following the time the alleged problem occurred. Failure of University personnel to respond within ten (10) days, at any level in the procedure, will allow the student to proceed to the next step. The channel of appeal for non-academic grievances shall be:

- The aggrieved student must first confer with the staff member involved in an attempt to resolve the problem.
- Unresolved grievances shall be filed in writing by the student with the appropriate director. The director will conduct an inquiry and attempt to resolve the matter impartially and as quickly as possible. This step must be concluded within ten (10) days of the date the grievance was received.
- If the grievance is not resolved at Step 2, the student may forward a copy of the grievance and all relevant correspondence to the Vice President for Student Services. The VPSS will conduct an investigation and attempt to resolve the issue. This process shall be concluded within (10) days of the date the grievance was received.
- If the issue is not resolved in Step 3, the student may appeal to the University President. If warranted, the University President will appoint a hearing panel consisting of a student, a faculty member, and a staff person from departments not involved in the grievance. If a hearing panel is appointed, the parties involved in the grievance will be allowed to submit written documentation concerning the problem, may be present at all hearing sessions, and will be given the opportunity to provide additional oral information on their behalf.
 Upon completion of the hearing(s), the panel will forward a written recommendation to the University President or his/her designee. This document should include findings of fact and the basis for the recommendation. The decision of the University President or his/her designee is final.

J. **Student Special Care Policy.** To ensure the safety and well-being of our students, New Mexico

State University may, on occasion, require that students receive a particular type of care or treatment (i.e., emergency medical attention, or vaccinations) as a condition of continued enrollment. When this care or treatment is required by the cognizant University administrator, the student will be obligated to assume any financial responsibility associated with the treatment.

Furthermore, the University may, on occasion, contact a student's parents, legal guardian, or spouse in cases of extreme emergency, or where a possibility of imminent harm exists. This will occur only when, in the judgment of the appropriate official, the best interests of the student and the University will be served.

When practical, the University will notify the student, in writing, of the University's intention to undertake the steps authorized by this policy. The decision may be appealed by the student to the VPSS within 24 hours of notification. The appeal should be in writing and clearly state the reasons why the student objects to the proposed action. The VPSS will review the facts in the case and convey a decision to all parties within 48 hours. The decision of the VPSS shall be final.

K. Additional Policies & Procedures

1. Children in the Academic Workplace: Students, staff, faculty, and administrators can expect to attend and teach class, or complete work or research in laboratories, libraries, offices, and other workplaces with a minimum of distractions or interruptions. Consequently, the following regulations have been established, and will be enforced by the VPAA or VPSS, to ensure that an appropriate academic environment is maintained.

- Children visiting campus must be closely supervised by an adult at all times. The supervising adult will ensure that the level of sound and activity produced by the children they supervise will in no way interfere with the process of education or work on campus.
- Children will be prohibited from entering dangerous settings such as labs and equipment rooms without the approval of the VPAA or VPSS.
- Children may not attend a class in session without the prior approval of the instructor. Children under the care of the instructor may not attend class without the prior approval of the immediate supervisor.
- Children may, on rare occasions and with the approval of the supervisor, accompany a parent to the workplace. However, the expectation is that parents will make alternate arrangements for the care of their children during normal working hours.
- Children taking part in programs and/or special events on-campus are expected to abide by the rules and regulations established by the program or event sponsors.

2. Family Education Rights & Privacy Act of 1974: New Mexico State University maintains academic, disciplinary, and other records pertaining to students in accordance with the specifications of the Family Educational Rights and Privacy Act of 1974 and amendments.

Students who are interested in acquiring access to their records should make their requests to:

- Vice President for Student Services (Grants/Las Cruces)
- Financial Aid (Grants/Las Cruces)
- Registrar (Grants Campus/Las Cruces)

- Admissions (Grants Campus/Las Cruces)

Directory information will be released upon request unless the student does not wish such a release and notifies the Registrar's Office in writing. Directory information includes student's name, address, e-mail address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and most recent previous educational agency or institution attended by the student.

Disclosure of the types of records maintained by the institution is available upon request by the student as are all other requirements stipulated by the Family Educational Rights and Privacy Act of 1974 as they pertain to New Mexico State University. Further information regarding details may be acquired from the Registrar's office.

3. **Dress Policy.** Dress is a matter of individual taste and judgment and can vary widely. However, some clothing, and/or the manner in which it is worn may be distracting, offensive and/or beyond what is normally considered decent. In cases where dress appears to be distracting, offensive, and/or rest outside the parameters of decency, the VPSS, a designee of the VPSS, or any other University official may ask for an immediate rectification. In the absence of a satisfactory response, further action will be taken as outlined in Section IV and V of this Code of Conduct

4. **Film Policy.** In order to comply with the Federal Copyright Act (Title 17 United States Code) which governs how copyrighted material, such as films/movies, may be used, it is strongly suggested that chartered student organizations and university departments of New Mexico State University review and adhere to the following guidelines as indicated by the Motion Picture Licensing Corporation when the proposed event involves the screening of a film/movie on the campus. The Student Services Office with assistance of Department of Campus Activities (Las Cruces) will be available for consultation regarding the public performance licensing procedures, but will not be responsible for ensuring that the student organization or university department have complied with the intent of the law and have secured the appropriate license.

By law, as well as by intent, the pre-recorded videocassettes and DVDs (referred to henceforth as "Videos") which are available in stores throughout the United States are for all purposes intended for "home use only." Rentals or purchases of Videos do not carry with them licenses for non-home showings. Before you can legally engage in any non-home showings, you must have separate license, which specifically authorizes such use.

Any institution, organization, company or individual wishing to engage in non-home showings of Videos should be aware of the Copyright Act's provisions governing the showing of Videos. The Copyright Act grants to the copyright owner the exclusive right, among others, "to perform the copyrighted work publicly." (Section 106-FCA) In summary, the Copyright Act mandates:

- The rental or purchase of a Video does not carry with it the right "to perform the copyrighted work publicly." (Section 202-FCA)
- Videos may be shown without a license in the home to "a normal circle of family and its social acquaintances" (Section 101-FCA) because such showings are not "public."

- Videos may also be shown without a license for non-profit educational purposes and in certain narrowly defined “face-to-face teaching activities” (Section 110. I-FCA) because the law makes a specific, limited exception for such showings (Sections 106 and 110 (1)-FCA)
- Other showings of Videos are illegal unless they have been authorized by license. Even “performances in ‘semipublic’ places such as clubs, lodges, factories, summer camps and schools are ‘public performances’ subject to copyright control.” (Senate Report No. 94-473, page 60; House Report No. 94-1476, page 64)
- Institutions, organizations, companies or individuals wishing to engage in non-home showings of Videos must secure licenses to do so regardless of whether an admission or other fee is charged. This legal requirement applies equally to profit-making organizations and non-profit institutions (Senate Report No. 94-473, page 59; House Report No. 94-1476-, page 62)

Showings of Videos without licenses, when one is required, are infringements of the established copyright. If done “willfully and for purposes of commercial advantage or private financial gain,” they are a federal crime and subject to a \$150,000 penalty per advantage or private financial gain,” they are a federal crime and subject to a \$150,000 penalty per exhibition (Section 506 – FCA).

In addition, even innocent or in advertent infringers are subject to substantial civil damages (\$750 to \$30,000 for each illegal showing and other penalties. (Sections 502-505 – FCA

To Obtain Public Performance License. Obtaining a public performance license is relatively easy and usually requires no more than a phone call. Fees are determined by such factors as the number of times a particular movie is going to be shown, how large the audience will be and so forth. While fees vary, they are generally inexpensive for small performances. Most licensing fees are based on a particular performance or set of performances for specified films. The major firms that handle these licenses include: Swank Motion Pictures, Inc., <http://www.swank.com>, (800) 876-5577; Criterion Pictures, <http://www.criterionpicusa.com>, and Motion Picture Licensing Corporation (MPLC), <http://www.mplc.com>, (800) 462-8855.

5. **Freedom of Expression Policy.** New Mexico State University recognizes and promotes an intellectually open campus. The free exchange of ideas through written, spoken, and other forms of expression reflects its public land-grant heritage, support of diverse points of view, and commitment to excellence in education and research.

- **Campus Use for Free Expression:** Any outdoor area that is generally accessible to the public may be used by any individual or group for petitioning, distributing written material, handing out newspapers, or conducting speech acts. Prior approval is not necessary as long as the primary action is not to advertise or sell a commercial product. Activities must follow all applicable fire codes, local, state, and federal laws. Activities shall not:
 1. Unreasonably obstruct vehicular or pedestrian traffic.
 2. Block the entrances or exits to building and facilities.
 3. Permanently occupy land areas or permanently locate signs and posters.
 4. Erect permanent structures, shelters or camps.
 5. Unreasonably interfere with classes, university work, and scheduled events.

In exercising the right of free expression, one must also accept the responsibility of following the laws related to the safety of people and property. If property damage or excessive littering occurs, or other unusual expenses are responsible for reasonable charges if deemed appropriate by the University President or his/her designee.

b. Petitioning and the Distribution and Posting of Literature and Signs

1. All literature distributed must contain identifying information either (1) the name of an NMSU Grants sanctioned organization, or (2) the name and address (which may be an organization and e-mail address) of the unaffiliated entity or person or the telephone number of the unaffiliated entity or person for someone to contact in case of litter problems.
2. Literature may be distributed hand-to-hand, through the use of tables, or by posting on designated bulletin boards and kiosks.
3. Written material may not be placed in non-approved locations. Written materials may not be placed on any part of a university building or structure without university permission. Posting on traffic signs, power poles, trees, and automobile windshields is not allowed.
4. Tables are allowed as long as they do not unreasonably interfere with pedestrian traffic. Materials may not be left on unattended tables. While scheduling of tables is not required in advance, those individuals who have previously scheduled a site through the University President's Administrative Assistant will take precedence.

c. Group Speech Activities

1. Group speech activities, including rallies, parades and demonstrations that are advertised through public media including newspapers, radio, television, flyers, or electronic lists may need to be coordinated through University President's Administrative Assistant.
 2. Any individual, group, or organization sponsoring a group speech activity that is expected draw more than 100 persons at one time and uses public media for advertising must notify the Administrative Assistant no less 72 hours in advance of the activity, so that the university can take appropriate actions to ensure the safety of the event and issue a permit as proof of prior notification. Activities expected to draw 500 or more participants, or require road closure or detours, must be scheduled two weeks in advance.
 3. Any individual, group, or organization planning a group speech activity is encouraged to contact the Administrative Assistant in university offices. This will allow for locations to be reserved or other concerns to be addressed, such as the use of sound amplification equipment. NOTE: All scheduling is done on a "first come, first serve" basis and activities that are scheduled receive priority in the use of space on campus.
- **Electronic Sound Amplification.** The use of electronic sound amplification equipment

must be authorized by the President, VPAA, or VPSS.

- Use of Chalk
 1. Chalk may be used on campus as long as it is restricted to concrete walkways.
 2. All chalk used must be of a temporary or removable nature. Permanent chalk, such as surveyor's chalk, may not be used under any circumstances.
- Policy Enforcement: Any person violating this policy will be subject to:
 1. Being asked to cease and desist or to relocate by appropriate university employees acting within the scope of their duties.
 2. Being ordered to leave the premises or property owned or controlled by the university by the city police or a person in charge of the property.
 3. Institutional disciplinary proceedings under the Student Code of Conduct if violated by a student. Violations by faculty or staff will be referred to the appropriate department or academic unit.
 4. Arrest for violation of local, state, and federal law(s).
 5. Restriction of future use of, or access to, the NMSU campus.
- Reference to Other Policies Impacting Freedom of Expression. In the event that the terms of this policy conflict with other existing policies impacting freedom of expression in areas generally accessible to the public, the terms of this policy shall prevail.

6. **Fundraising/sales & solicitation.** Raising funds is a means for campus organizations to supplement their other resources in meeting the goals of their organization. In order to avoid conflicts, duplications, or violation of laws or regulations, it is necessary to establish guidelines to aid in coordinating such activities.

Although the University supports organizational fund-raising efforts, it recognizes that the campus is not a market place to be exploited by opportune entrepreneurial projects. Fund raising is not the primary function of student organizations, and campus organizations do not have an implicit right to use the campus or the community for fund-raising activities.

Fundraising through sales and solicitations, both on and off-campus must be examined and approved by the Campus President, VPAA, or VPSS.

7. **Nondiscrimination Policy.** The University is dedicated to providing equal employment and educational opportunities to all persons without regard to age, ancestry, color, disability, gender identity, national origin, race, religion, sexual orientation, spousal affiliation or veteran status. The university strives to comply with all federal and state nondiscrimination laws, including:

- Titles VI and VII, Civil Rights Act of 1964
- Age Discrimination in Employment Act of 1975
- Equal Pay Act of 1963
- Pregnancy Act of 1978
- Education Amendments of 1972, Title IX

- Section 504 of the Rehabilitation Act of 1973
- Vietnam Era Veterans Readjustment Act of 1974
- Executive Order 11246
- Executive Order 11141
- Americans with Disabilities Act of 1990
 - Civil Rights Act of 1991
 - New Mexico Human Rights Act

This dedication extends to recruitment, hiring, promotion, compensation, training, benefits, separations, and to the availability and delivery of all educational, academic, and student welfare programs and services. The Office of Institutional Equity/EEO Office is responsible for assuring compliance with equal employment opportunity programs throughout the university. Any individual who wishes to file a discrimination complaint or discuss discrimination issues is encouraged to contact the Office of Institutional Equity/EEO Director or the Human Resources (Personnel) Director if the individual is uncomfortable reporting the complaint to the Office of Institutional Equity/EEO Director. For nondiscrimination complaints or matters, employees may contact the Assistant Director of Employee Relations, Hadley Hall Room 15, and the telephone number is (505) 646-4148.

To access the complete grievance procedures for discrimination, please refer to Chapter Four, Section 4.05.10 of the New Mexico State University Policy Manual (dated September 8, 2006). Copies of this policy manual may be obtained via Personnel website at <http://www.nmsu.edu/manual/>

8. **Sexual harassment policy/hostile work/academic environment.** To access the complete Sexual Harassment Policy, please refer to Chapter Three, Section 3.94 of the New Mexico State University Policy Manual (dated September 8, 2005). Copies of this policy manual may be obtained via the Personnel website at <http://www.nmsu.edu/manual/>
 All employees and students should be aware that the university is prepared to take action to prevent and remedy such behavior, and individuals who engage in such behavior are subject to disciplinary action. Faculty and staff with actual or apparent authority who engage in sexual harassment or neglect to control the work environment may be held accountable. Anyone who may have been subjected to sexually offensive behavior or conduct in the classroom or work environment is encouraged to contact the Office of Institutional Equity/EEO Director. The office is located in O’Laughlin House on University Ave. and the telephone number is (575) 646-3635.
9. **Disability.** Qualified students with disabilities are to be provided with reasonable accommodation in accessing buildings, programs, and services. Students are encouraged to contact the VPSS, (505) 287-6628, for academic related services. Disability based discrimination grievances may be filed according to the procedures set for in Section 4.05.10 of the New Mexico State University Policy Manual (dated September 8, 2006)
10. **Posting Policy.** Written information may be posted on the NMSU Grants campus at designated locations (locations may be obtained from the Student Services Office). Written materials may not be placed on automobile windshields, traffic signs, power poles, trees or any part of a university building or structure including walls, glass, doors or floors. Permission to use building bulletin boards is at the discretion of the Student Services Office and use must conform to facility operating policies where they exist.

Posters or signs providing directions or information related to a convention or special event may be placed at designated location assigned by the Student Services Office and displayed on the date of the event, but must be removed by sponsoring group when the event is over.

Questions related to the interpretation of this policy should be directed to Student Services Office, (505) 287-6628 or (505) 287-6629.

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

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

Smoke Free Areas. Smoking is prohibited in or at:

- All enclosed building and facilities including classrooms, offices food service venues, and lavatories;
- Within 25 feet of building entrances and exits (when reasonable) and fresh air intake grills unless it is a specially designated smoking area;
- Partially or fully enclosed walkways, corridors, elevators;
- Vehicles owned, leased or rented by the University; and
- Within 50 feet of any area where flammable materials are handled, stored, or where other significant fire hazard may exist.
- Indoor athletic, other University sponsored or designated events.

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

Education and Services for Smokers. In light of numerous adverse health effects associated with active smoking, and with exposure to second hand smoke, the University will provide educational services to faculty, staff, and students about the hazards of smoking and information and services on quitting smoking. This will be done at the main campus in Las Cruces. People interested in this service should contact the NMSU Student Health Center (for students), and the Employee Health Center (for employees).

Cooperation and Compliance. This policy relies on the mutual courtesy and cooperation of smokers and nonsmokers for its success. It is the responsibility of all members of the NMSU

community to observe the provisions of this policy on smoking. Complaints, concerns, or disputes regarding its implementation should be referred to the immediate supervisor for resolution. Beyond that, disputes may be taken to the VPSS, VPAA, or University President for resolution on campus. If necessary, the University's Environmental Health and Safety will be consulted for assistance in determining what distance or location is reasonable for the particular situation. Managers and Department Heads are responsible for seeing that persons in their areas are informed and comply with this smoking policy. Those having difficulty complying with these restrictions are encouraged to seek assistance. The staff will aid in finding assistance if desired. Students, faculty, and staff violating this policy are subject to disciplinary action. Any person who commits an unlawful act under any of the provisions of New Mexico "Clean Indoor Air Act" shall be fined in an amount not less than ten dollars or more than twenty-five dollars for each violation. Additionally, anyone found smoking under the age of eighteen (18), or selling or supplying tobacco products to a person under the age of eighteen (18) will be asked to provide I.D., given a warning, and may be reported to the Grants Police Department at any time.

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

12. **Vacating University Buildings or Property.** The university recognizes the importance of providing a venue where members of the community can freely and openly express their ideas. However, if an individual(s) and/or organization improperly or illegally occupies university buildings or property, the following statement will be read: "You are violating university regulations and/or State laws concerning improper occupation of building or property. If you leave within the next ten minutes, no further action will be taken. If you do not leave within 10 ten minutes you may be arrested. If you are a student, you may also be subject to disciplinary action as outlined in the Student Code of Conduct."

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

Policies are subject to change. Check the New Mexico State University website at: <http://success.nmsu.edu/judicial.html>