



# Employee Handbook

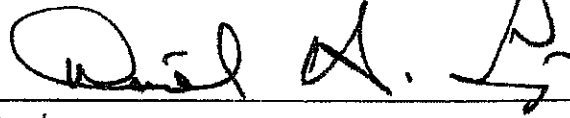
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## Policies and Procedures

New Mexico Tech Office for Human Resources  
Last modified April 2015

Sponsor: V.P. for Administration and Finance  
Source: Department of Human Resources

Amendment of Policy Approved by NMIMT President

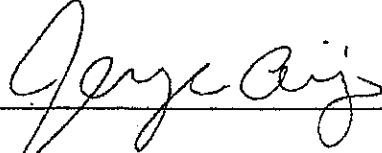


5-8-15

Signature

Date

Policy as Amended and Adopted by the Board of Regents



5-8-15

Signature

Date

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## Message from the President

Welcome to the New Mexico Institute of Mining and Technology (“New Mexico Tech” or “Institute” or “University”).

We are very pleased that you have joined us. The excellence of an institution ultimately is based on the quality of its people. The faculty provides academic and research excellence, the professional administrative staff ensures organizational excellence, and the support staff provides the fundamental base to keep it all functioning. In this context, New Mexico Tech offers a work environment where individuals can grow to the full extent of their capabilities and aspirations.

New Mexico Tech strives to provide employees with opportunities to match their skill, experience and capabilities to meet the needs and goals of the organization. Its Human Resources policies offer direction and opportunity through a careful blend of planning, development, assessment and placement.

From time to time, new policies are developed, and outdated policies are modified or expunged in response to changes in situations and conditions. Although New Mexico Tech tries to keep employees informed about changes in employment policies, the policies in this handbook may be modified without notice.

However, please understand that the policies contained herein cannot be modified, varied or bypassed without the express written approval of the President of the Institute.

We sincerely hope that your employment here will be a positive and rewarding experience. However, New Mexico Tech cannot guarantee continued employment for any individual.

Your employment at New Mexico Tech is at will, which means that you are free to quit at any time, just as the Institute is free to terminate your employment at any time, for any reason not in violation of state or federal law.

**Disclaimer: Nothing in this Handbook constitutes a contract or promise of continued employment.**

This handbook applies to all New Mexico Tech employees unless otherwise excluded.

This handbook supersedes previous handbooks.

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Daniel H. López, Ph.D., President

## 1. Introduction to New Mexico Tech

New Mexico Tech (*officially, New Mexico Institute of Mining and Technology*)

was founded in 1889 as the New Mexico School of Mines. Over the years, our mission has expanded. We are now an internationally recognized science and engineering research university.

Students come to New Mexico Tech for its outstanding academic reputation, one- on-one mentoring relationships with professors, hands-on-laboratory learning experiences, and opportunities for on-campus employment in one of our major research facilities, or with our research faculty, and because of its beautiful and pastoral Southwestern setting.

New Mexico Tech is a world leader in many areas of research, including hydrology, astrophysics, atmospheric physics, geophysics, homeland security, information technology, computer science, geosciences, energetic materials engineering, mechanical and civil engineering, engineering management, earth and environmental sciences, mineral engineering, materials engineering, social sciences, biology and petroleum recovery.

## II. Mission and Vision Statements and Institutional Values

### Vision Statement

New Mexico Tech aspires to be a preeminent community of scholars dedicated to research, education, and innovation – advancing science, technology, engineering and mathematics – to meet the challenges of tomorrow. We will drive innovation and education through transdisciplinary collaborations.

### Mission Statement

New Mexico Tech serves the state and beyond through education, research and service, focused in science, technology, engineering, and mathematics. Involved faculty educate a diverse student body in rigorous and collaborative programs, preparing scientists and engineers for the future. Our innovative and interdisciplinary research expands the reach of humanity's knowledge and capabilities. Researchers, faculty, and students work together to solve real-world problems. Our economic development and technology transfer benefit the economy of the state and create opportunities for success. We serve the public through applied research, professional development, and teacher education, benefitting the people of New Mexico.

### Institutional Values

New Mexico Tech has defined the following enduring, guiding principles for its continued growth and development as a quality STEM institution of higher education.

**Research:** Groundbreaking transdisciplinary research that generates knowledge and innovative design for science and engineering and solves challenging and complex problems, driven by a relentless commitment and focus by faculty, students, and research staff.

**Integrity:** Maintaining the highest standards of academic and professional ethics, fairness, and honesty in all endeavors, and being responsible members of the NMT community.

**Creativity:** Creativity is integral to all our teaching, research, and business processes and is driven by curiosity, adaptability, and resourcefulness, requiring imagination, vision, risk-taking, and diligence.

**Lifelong Learning:** Lifelong learning skills are developed through a rigorous curriculum, a challenging educational experience with a foundation of critical thinking and problem solving, invigorating research and significant professional development that prepares students, faculty, and staff for continuing individual and career growth.

**Excellence:** High-quality education and research drives excellence in all aspects of our mission.

**Economic Prosperity and Technological Development:** STEM education, research, technical assistance, and technology transfer are drivers of economic prosperity and technological development in the state, nation, and the world; continuous faculty, researcher, and staff professional development programs and outreach initiatives for underrepresented communities to pursue STEM careers are hallmarks for the future.

**Integrated Planning and Decision Making:** Openness, fairness, collaboration, and stakeholder input in university operations are driven by accurate and reliable data made available to the campus community.

**Collegiality and Collaboration:** Positive energy, performance, and support from a collegial and collaborative environment, contributes to the advancement of our students, our colleagues, and our institution.



### **3. Code of Ethics**

New Mexico Tech is committed to maintaining the highest standards of ethics and integrity in all of its academic, research, and administrative operations, by promoting such standards among its regents, administrators, faculty, staff, students and others acting on behalf of the university or its affiliated entities. Everyone is to be aware of and comply with all applicable laws, regulations, and university policies. When involved in research activities, all individuals must recognize all requirements of any contract or grant applicable to the research.

In maintaining an ethical institution, all individuals shall exercise the utmost good faith in all transactions with and on behalf of the university. This includes being entirely honest in their relationships impacting the institution and they shall not use any knowledge gained from their relationship with the institution to benefit themselves whether or not there is a resulting adverse impact to the institution.

In complying with maintaining the ethical standards deserving of an institution of higher education, all individuals shall respect the rights, values and contributions of others, maintain the confidentiality of private or proprietary information to the extent required by law or policy, never act or fail to act in a manner that may appear to create a personal benefit, and avoid at all times employing or supervising relatives as set forth in Section 12.

All university assets and resources shall only be used in furtherance of university goals and not for personal gain or benefit. At such time as any individual realizes or should have realized his or her actions conflict with this policy it shall be immediately reported to the administrative head for immediate action consistent with this policy.

To assist in complying with this policy, the Vice Presidents of Research and Economic Development, Academic Affairs, Administration and Finance, Student University Relations/Dean of Students and Directors of Petroleum Recovery Research Center, Energetic Materials Research and Testing Center, and Bureau of Geology & Mineral Resources ("Bureau") shall develop appropriate administrative policies and procedures to guide their respective constituents.

#### **4. Equal Employment Opportunity Policy**

New Mexico Tech is committed to a policy of equal employment opportunity in all its personnel policies and procedures. Equal employment opportunity refers to the right of every person or applicant to be judged on the basis of relevant skills, experience, and training without regard to ancestry, race, color, sex, religion, age (40 and over), national origin, physical or mental disability, gender identity, sexual orientation, genetic information, spousal affiliation, qualified protected Veterans, ancestry, or serious medical condition.

To help ensure nondiscriminatory practices, New Mexico Tech has a Director of Equal Opportunity and Affirmative Action who reports directly to the President of New Mexico Tech. Achieving equal employment opportunity requires the active cooperation and awareness of every employee including those with supervisory responsibility, whether on the University campus or at one of the Institute's satellite locations or research affiliates.

## **5. Human Resources**

### **A. Policy Statement**

New Mexico Tech is committed to the development of a skilled and motivated work force. Education and training are essential components of staff development. New Mexico Tech tries to provide all employees with the opportunity to match their skills, experience, and capabilities to meeting the needs and goals of the Institute.

In addition, it is our intent to provide a competent supervisory staff that is concerned and committed to the welfare and development of employees, to provide open communications for employees to discuss opportunities, questions on Institute policy and other concerns or issues, and to keep employees informed of changes that may have an effect on their jobs or families.

It is New Mexico Tech's policy to recruit, select and employ the best-qualified individuals available. Whenever possible, vacancies are filled by promotion or transfer of qualified employees within the Institute. All regular and temporary (not summer, emergency or temporary services) positions will be filled through search and recruitment procedures commensurate with Equal Opportunity and Affirmative Action policies and regulations.

From time to time, it may be necessary to make exceptions to this policy and its applicable procedures. Any such exceptions require the written approval of the Institute President. When a vacancy occurs, unless an exception has been made, the following procedures shall apply:

### **B. Recruiting and Hiring Procedures**

Guidelines for conducting recruitment and hiring are available from the Human Resources Department. From time to time, it is necessary to revise or modify recruiting and hiring procedures and guidelines as new federal or state laws and regulations are established, as required by legal issues, and to improve existing procedures. Guidelines provide New Mexico Tech with the flexibility to respond to changes when necessary. Topics covered in these guidelines, but not limited to them, include:

- Personnel requisitions
- Job posting

- Application processing
- Screening of applications
- Interview
- Review of interview results
- References/employment verification
- Notification of interview results
- Employment/administrative procedures for new hires

**6. Introduction Period for New Employees (Does not Apply to Faculty or Students on Work-Study, GA/TA Contracts)**

New employees need a period of time to adjust to the organization and to determine whether or not their expectations are being met and that their skills match those of posted job requirements. All new regular and temporary employees serve a period of introduction. The support staff introduction is for six months, and for professional staff, it is for 12 months. New employees must attend the first new employee orientation following their hire date conducted by the Human Resources Department. Policies, procedures and benefits are explained at orientation; employees may sign up for the health, dental, vision and life insurance plans, as well as for other benefits offered by the Institute.

Supervisors will provide new employees with copies of their job descriptions and explain the expectations for performance in the new job. New employees' performance is formally evaluated during their period of introduction. The supervisor will discuss these evaluations with the new employee. The period of introduction may be extended one time for up to three months, when, in the opinion of the supervisor and with the concurrence of the Human Resources Director, the employee's performance has shown improvement, but has not fully reached acceptable standards.

Employees may be terminated during their period of introduction at any time without notice or explanation. While employees are in their introductory period, they do not have access to the grievance procedure.

New employees are eligible for benefits and privileges, but are not entitled to use annual leave during the first six months of employment. Support staff are eligible to apply for another position after six months; professional staff after one year.

In the event of a reduction in force, introductory employees will be laid off before regular employees who have completed their period of introduction. This policy may be waived by the President of the Institute for special circumstances.

## **7. Employee Categories and Position Classification**

### **A. Regular Employees**

A regular position may be full-time (40 hours per week) or part-time (less than 40 hours per week). A regular position is expected to last for more than 360 days. Regular employees are eligible for all benefit programs and privileges.

### **B. Regular Limited Term:**

A regular limited term position refers to a set term of employment of more than 360 days and less than 60 months, as set forth in the Personnel Action Form. A regular limited term position may be full-time (40 hours per week) or part-time (less than 40 hours per week). Regular limited term employees are eligible for all benefits programs and privileges.

### **C. Temporary Employees**

Temporary employees are hired to fill in for employees on leave, on sabbatical leave, or to meet special job needs such as grant work and short-term research contracts of up to one year. Vacancies for temporary positions are usually filled through New Mexico Tech's regular employment process.

### **D. Emergency Employees**

The classification of an emergency employee is available to departments that need additional or replacement staff resulting from absences due to illness, leave of absence of regular employee(s), or from unanticipated work requirements. The length of emergency employment and any extension thereof will be determined jointly by the hiring unit and the Director of Human Resources and may be subject to reduced work hours.

Emergency employees are not eligible for compensatory time off, holiday pay, annual leave, sick leave, and such benefits not mandated by law under the New Mexico Tech Employee Benefits Plan.

Emergency employees may be terminated at any time without notice or explanation. The policies and procedures set forth in this Handbook under the

headings “Disciplinary Action” and “Grievance and Complaint Resolution” do not apply to emergency employees.

#### **E. Postdoctoral Appointments**

Postdoctoral employees are initially employed for up to one year. Employment may be extended for up to one additional year, provided funding is available. Any unit desiring to extend a Postdoctoral beyond the first year must obtain the approval of the President of the Institute prior to the end of the first year. Postdoctoral employees are employed through the same employment procedures as regular employees. Postdoctoral employees are professional employees and are eligible for medical benefits. The policies and procedures set forth in this Handbook under the headings “Disciplinary Action” and “Grievance and Complaint Resolution” do not apply to postdoctoral employees; their procedures are handled under Academic Affairs.

#### **F. Student Postdoctoral and Research Assistants/Associates**

Graduating students may continue after graduation as Postdoctoral or research assistants to complete research projects that were initiated prior to graduation. Such Postdoctoral and Research Assistants/ Associates will be considered as full-time temporary employees and eligible for medical benefits. These positions may continue for up to 12 months, and up to 24 months with presidential approval. The policies and procedures set forth in this Handbook under the headings “Disciplinary Action” and “Grievance and Complaint Resolution” do not apply to these employees; their procedures are handled under Academic Affairs.

#### **G. Students**

Students enrolled as regular students and who are not employed under student employment may apply for regular and temporary part-time positions. Students working in regular and temporary part-time positions must participate in the Educational Retirement Board Program, and may be eligible to participate in other New Mexico Tech benefits depending on employment status. Typically, these position titles are listed as Student Interns.

#### **H. Summer Employment**

High school and college students may be hired for the summer months, May through August. Students must be 16 years of age or older.

Students must meet the position qualifications for which they are hired and will be paid the regular starting rate of pay for that position. Summer student employees are not eligible for benefits other than those required by statute.

Summer student employees are not eligible for compensatory time off, holiday pay, annual leave, sick leave, and such benefits under the New Mexico Tech Employee Benefits Plan, or to participate in any other Tech benefit program. The policies and procedures set forth in this Handbook under the headings "Disciplinary Action" and "Grievance and Complaint Resolution" do not apply to summer student employees.



## 8. Employee Status

Employees at New Mexico Tech are hired in an employee classification and are either:

### A. Support Staff

This classification includes Secretarial/Clerical, Technical, Skilled or Service employees who are paid on an hourly basis and must complete a time card. Support staff employees are eligible for overtime payments or compensatory time after working 40 regular hours in a work week. These employees are classified as nonexempt by the Fair Labor Standards Act.

### B. Professional Staff

This classification includes Executive, Faculty, Administrative, Supervisory, or Professional employees. Professional staff employees may or may not be required to complete a time card depending upon their work responsibilities. Professional staff employees are responsible for their own time, but are expected to work at least 40 hours per week to complete work obligations. These employees are classified as exempt by the Fair Labor Standards Act.

### C. Positions

- 1. Regular Position:** A position expected to last for more than 360 days. A regular position may be full-time (40 hours per week) or part-time (less than 40 hours per week). Regular employees are eligible for all benefit programs and privileges.
- 2. Regular Limited Term:** A position expected to last for more than 360 days, but for less than five years. A regular limited term position may be full-time (40 hours per week) or part-time (less than 40 hours per week). Regular limited term employees are eligible for all benefit programs and privileges.
- 3. Temporary Position:** A position lasting less than 360 days. A temporary position may be full-time or part-time. Temporary full-time employees are eligible only for New Mexico Tech's Employee Health Plan and legally required benefits. Contact the Human Resources Office for further information.

**4. Emergency Position:** A full-time or part-time position for a period (normally three months or less) as determined by the hiring unit and the Director of Human Resources. Emergency employees are not eligible for New Mexico Tech's voluntary benefits programs, but are eligible for legally required benefits such as Workers' Compensation and Unemployment Compensation.

**D. Temporary and Emergency Employees' Length of Employment and Access to Complaint Resolution Procedures.**

The length of employment for temporary and emergency employees may not be extended except in extraordinary circumstances, and with the written concurrence of the Director of Human Resources. Requests to extend the length of employment for these employees must be submitted in writing and approved by Human Resources with the concurrence of the division Vice President or the Institute President. The policies and procedures set forth in this Handbook under the headings "Disciplinary Action" and "Grievance and Complaint Resolution" do not apply to temporary or emergency employees.

**E. Full Time Equivalency (FTE)**

Employees working less than full time will be assigned a corresponding percentage of the FTE according to the number of hours they are expected to work. The FTE is used to calculate benefits and leave accruals as applicable.

The following are acceptable FTEs per pay period:

- .25 equals 20 hours
- .50 equals 40 hours
- .75 equals 60 hours
- 1.00 equals 80 hours

**9. Work Week and Hours (Does not Apply to Faculty or Students on Work-Study, GA/TA Contracts)**

The normal workweek is Monday through Friday from 8:00 a.m. to 5:00 p.m. If a position's required working hours vary from the normal workweek, the employee will be informed of the schedule by the supervisor. The workday will be determined by the department supervisor.

New Mexico Tech does not have a policy to allow employees to work from home. Situations that necessitate working from home for a short period of time must be approved by the division vice president.

Work permitting, support staff employees generally receive two short breaks for up to 20 minutes each, one in the morning and one mid-afternoon. Breaks are neither cumulative, nor can they be used to leave from work early or to be used for personal business off campus. The one-hour lunch period is usually taken from 12:00 noon to 1:00 p.m. The employee and the supervisor can determine the best times to take breaks and lunch.

## **10. Inclement Weather**

During periods of inclement weather, both employees and supervisors should keep in mind the safety and well-being of employees and the need of the Institute to conduct business on a regular basis. During periods of inclement weather, employees are expected to be at work as scheduled, but should take reasonable and safe measures to meet their employment obligations. When a delay or closure due to inclement weather has been announced (as determined by the President or his/her designee), time off for regular full-time and part-time employees will be reported as administrative leave. Emergency and temporary employees will receive leave without pay. Employees on previously approved sick or annual leave, or on a shift assignment not affected by the delay, are not eligible for the paid administrative leave.

**11. Hiring Former Employees**

Former employees deemed eligible for rehire at the time of termination are eligible for rehire if their qualifications meet the requirements of the open position. A former employee who was terminated involuntarily due to unsatisfactory performance or disciplinary action, or whose record has been noted as "not eligible for rehire," may be considered for rehiring with the approval of the Human Resources Director

**12. Employment and Supervision of Relatives**

Supervisors or any employee with hiring authority may not employ or supervise a relative of their own. If family status or employment responsibilities change, resulting in a supervisor-subordinate relationship as described above, the situation must be remedied within six months by transfer, resignation or termination of one of the related employees, or by relegating supervisory responsibility to eliminate any direct supervision and wage determination. Relatives are defined as parents, spouses, natural and stepchildren, grandchildren, brothers and sisters, aunts and uncles, nephews and nieces, first cousins and in-laws.

**13. Driver's License Policy (Also see Appendix C)**

Many positions at New Mexico Tech require employees to operate a motor vehicle; therefore, employees who need to operate motor vehicles as part of their essential job functions must have a valid New Mexico Driver's License. An employee who loses the right to have a valid license becomes unqualified to continue in his/her position, if the position requires the operator to possess a valid driver's license.

The following procedures must be followed in dealing with employees who lose their driving privileges and whose position requires them to operate a vehicle:

- Employees with less than 10 years of continuous service may request a leave of absence without pay of up to 30 days. If their driving privileges are not reinstated within the leave period, their employment will be terminated.
- Employees with 10 or more years of continuous service may request a leave of absence without pay for up to one year. Such a leave is granted at the discretion of New Mexico Tech and requires the approval of the President. Employees on authorized leave whose driving privileges are reinstated within one year will be reinstated to their former position or to a like position with similar pay. Employees on approved leave will maintain their accrued benefits, but will not continue to accrue additional benefits. Such employees may maintain their participation in the Employee Benefit Plan by paying the full monthly contribution each month. Arrangements to self-pay for medical and life insurance benefits can be made in the Human Resources Office.
- Employees whose driving privileges are not reinstated within the leave period shall be terminated.
- Employees who are on approved leave of absence and who fail to return from leave upon the restoration of their driving privileges shall be considered as having resigned, and their employment shall be terminated.

**14. Voluntary Resignation**

New Mexico Tech hopes that employment here will be fulfilling and long lasting. However, in the event of resignation, employees are encouraged to give their supervisor written notice of at least two weeks, and four weeks for professional staff, in advance of the date the employee intends to leave. Prior to termination, employees must report to the Human Resources Office to complete necessary paperwork.



**15. Layoff (Does not Apply to Faculty or Students on Work-Study, GA/TA Contracts)**

If it becomes necessary to reduce the number of employees, or to reduce the available work hours in a defined organizational unit of New Mexico Tech because of lack of work or funds, organizational changes, or for any other reason, regular and regular term full-time and part-time employees will, at New Mexico Tech's option, be provided with a minimum of two weeks' advance notice, or with up to two weeks' pay in lieu of notice. Temporary and emergency employees will be given at least 24 hours' notice, but will not receive pay in lieu of notice. An organizational unit is defined as a segment of New Mexico Tech's organizational structure that is responsible for a specific activity or group of activities. A unit may be divided into subunits to indicate levels of responsibility, e.g., professional or support staff, electrician I, II, III, or to indicate functional specialties within the unit, e.g., accounts payable or accounts receivable.

The selection of regular employees for layoff or reduced hours shall be based on the employee's performance and ability to perform present and future work as judged by the organizational unit's supervisory staff. When performance and ability to perform present and future work are judged to be relatively equal, then the length of continuous regular service may be a deciding factor. Emergency and temporary employees within an organizational unit will be laid off before regular employees. Organizational units must consult with the Human Resources Department and the Equal Opportunity and Affirmative Action Office in the selection process.

Regular and limited term employees selected for layoff may apply for any existing vacant positions for which they have the training, skill and experience to perform. While regular employees are on layoff and eligible for recall, the Human Resources Office will contact them by telephone or mail whenever vacant positions exist for which they may qualify. Employees on layoff may apply for vacant positions and will be given consideration as regular employees. Employees accepted in a position will have the job title and rate of pay for the new position.

If an employee's former position or a position with essentially the same duties in the employee's previous organizational unit becomes vacant and if funding is available, it will be offered to the employee as per the recall schedule described below.

Regular employees on layoff may be recalled to work during their recall period before hiring a new employee in the same or similar position. The recall period is based on an employee's length of service at the time of layoff as shown in the following table:

LENGTH OF SERVICE	RECALL PERIOD
6 Months to 5 Years	6 Months
Over 5 Years	12 Months

Employees are recalled to work in reverse order of layoff. The employee or employees will be contacted by certified mail return receipt and will have seven days from receipt to contact the Human Resources Office with a decision to return to work or not. Employees accepting recall will be accorded appropriate service credits. Length of service after recall will be computed from the most recent date of hire, reduced by the length of time on layoff. Employees refusing recall or not responding to the letter of recall will not be contacted in the event of future vacancies.

**16. Employees on Layoff – Benefits**

- A. Employees on layoff may elect to continue medical, dental and vision coverage for up to 18 months following layoff. If an employee is disabled at the time of layoff, the employee may elect to continue coverage for up to 18 months. The employee benefit claims administrator will contact the employee to make the proper arrangements. The employee is responsible for the full cost of monthly premiums.
- B. Employees who are laid off will be paid for accumulated compensatory time and annual leave and for accumulated sick leave as described under the section of this handbook entitled "PAYMENT FOR ACCUMULATED SICK LEAVE."
- C. Employees on layoff will receive their final paycheck no later than the first regular pay period following layoff, provided property clearance forms have been completed and approved.
- D. Employees on layoff will be paid for any holiday occurring within two weeks of layoff.
- E. Employees on layoff at their request will be given reasonable assistance in searching for a new position, including resume preparation, coaching in interview skills, job market identification, and clerical assistance. Any assistance provided will be limited to 6 months from the date of layoff.

## **17. Workplace Violence**

New Mexico Tech expects and requires all employees to use common courtesy and engage in safe and appropriate behavior at all times while on the job, on New Mexico Tech property, or representing New Mexico Tech away from the job. Any involvement in physical violence, threats or provocative remarks that are intended to incite violence are unacceptable. Employees engaging in such activities are subject to immediate and severe disciplinary action up to and including termination.

An employee's actions may indicate signs of losing control that could lead to impending violence. Employees who are targets of workplace violence or who observe violent acts should follow these procedures:

- Notify your supervisor immediately. All acts of violence, physical and verbal, should be reported. Your supervisor will contact campus police if the situation dictates that such action is necessary.
- If your supervisor is not available, call campus police at x5434. Explain the situation to the dispatcher who will determine if further emergency care is required.

**18. I-9 Employment Eligibility Verification Policy and Procedures**

The Immigration Reform and Control Act of 1986 requires all employers to verify that individuals being considered for employment are eligible to work in the United States. The law requires that new employees complete a Form I-9 (Employment Eligibility Verification) within three business days of commencing employment. There are no exceptions to the verification requirement.

In most instances, new employees will complete the Form I-9 on their first day of employment, or on the effective date of their employment contract. Most employees will complete their I-9 in the Human Resources Office. Employees at the Air Force Research Laboratory and other off-campus sites will complete the I-9 at the office where they work. Instructors with the Community Education Outreach Program will fill out the forms at the Registrar's office. The completed I-9 forms from these offices must accompany the Personnel Action Form.

Employees who are unable to provide eligibility documentation within three working days of the effective date of their employment must be terminated. There can be no exceptions.

**19. Wages and Salaries (Does not Apply to Faculty or Students on Work-Study, GA/TA Contracts)**

Tech's wage and salary administration program gives consideration to types of work performed through job descriptions and position evaluation, quality of job performance as judged by performance evaluation, compensation relationships within New Mexico Tech and pay rates in the job market outside of the Institute.

**A. Initial Rates of Pay**

Every position at New Mexico Tech has an established pay range. Usually a new or transferring employee begins at the minimum rate of pay for the position. There may be instances when a transferring or new employee is paid at a higher rate, for the position due to advanced education, qualifications and/or experience. Offers of employment above the minimum rate of pay must have the approval of Human Resources.

**B. Wages and Salaries**

Wages and salaries may be increased on or about July 1 of each year, depending upon Institute directives for annual increases and outside influences that affect the economic stability of state-funded entities. All employees are eligible for the July 1 general increase.

**C. Merit Increases**

Employee performance reviews will be conducted during January and February of each year, with merit increases effective on or about July 1 of each year. Merit increases are determined solely on performance as determined by the annual performance evaluation process and the availability of merit increase funds. Employees who are in their introduction period are not eligible for merit increases.

**D. Temporary Assignments**

Assignments to higher classified positions give employees the opportunity to cross-train in another position and to learn new skills, to gain valuable experience, and to demonstrate aptitude for another job. The following policy governs compensation for employees temporarily assigned to different positions.

a. Professional Staff Employees Temporarily Assigned to a Higher Position

Professional employees temporarily assigned to higher classified positions for forty hours or more may at the request of the Vice President or Division Director and with the approval of the Institute President receive an adjustment in compensation in an amount agreed to by the division director and the President of the Institute. Assignment to a higher classified position means that the temporarily assigned employee is performing the essential functions of the higher classified position, and has the authority to initiate and approve actions and decisions that are normally at the discretion of the incumbent of the higher rated position. Employees will return to their regular rate of pay at the end of the temporary assignment. Temporary assignment compensation cannot become the permanent salary for the employee.

b. Support Staff Employees Temporarily Assigned to a Higher Classification

Employees assigned to perform a higher classified position for forty or more hours will be paid the minimum rate for the higher classification, or receive an 8 percent increase, whichever is greater, not to exceed \$2 per hour for the period of time assigned to the higher classified position. Temporary upgrades of more than 24 hours require the approval of a Vice President or Division Director. Assigned to a higher classified position means that the temporarily assigned employee is performing the essential functions of the higher rated position. Employees will return to their regular rate of pay at the end of the temporary assignment.

c. Employees Temporarily Assigned to Lower Classified Positions

Employees temporarily assigned to lower classified positions will earn their regular rate of pay. Any scheduled pay increases that occur during an employee's temporary assignment will be calculated on the employee's regular rate of pay.

## **E. Promotions**

When an employee is promoted to a new position, the individual's pay rate is increased to the minimum for the new position, but not less than 8 percent. A promotion is defined as being accepted or reclassified into a higher rated position. If the job title changes, a job posting is required.

## F. Reclassification

Occasionally, the duties and responsibilities of a position change substantially. In such an instance, the rate of pay for the position may no longer be appropriate. Supervisors may request that a job study be conducted to determine if a position has changed. A staff member of the Human Resources Office will perform the job study. The job study will determine the functions being performed and the qualifications required to perform the job. Once the job description is approved by the Vice President or Division Director and the Director of Human Resources, a rate of pay for the position will be established through position evaluation. As a result of the job study, a position may be reclassified upward or downward, or remain at the same rate of pay. If a position is reclassified downwards, the incumbent's rate of pay will not be reduced. Incumbents paid above the established pay range for their position will have future pay raises suspended until their rate of pay falls within the established pay range.

## G. Equity Adjustments

**An equity increase may be granted in two instances:**

- First, if an employee is paid less than other employees in the same job classification and the employee's qualifications, experience and performance in the job classification are relatively equal to other employees in that job classification, then that lower paid employee is eligible for an equity increase.
- Second, if the Institute is paying a wage or salary that is significantly less than what is being paid in the job market, the Institute may adjust that job classification's wage or salary grade and the incumbent's rate. Equity raises must be based on job wage comparison analyses conducted by the Human Resources Office and approved by the appropriate Division Director or Vice President, and the President.

## H. Demotions

When an employee is demoted involuntarily, his or her wage or salary will be reduced at the rate of 10 percent per fiscal year, offset by any general or merit increases, until the rate of pay reaches the midpoint of the wage or salary range for the new position. An employee facing an involuntary demotion has the opportunity to request a hearing within five work days of the pending demotion. The department/division director will serve as the hearing officer at the hearing and will make the final determination regarding the



pending demotion. The wage or salary of an employee who voluntarily requests a demotion will be reduced to the midpoint for the new position.

## I. Overtime

### a. Support staff employees

Those employees classified as nonexempt under the Fair Labor Standards Act are eligible for overtime pay or compensatory time off for all authorized time worked over 40 regular hours in a work week. Overtime pay is one and one-half times the basic hourly rate of pay.

Overtime is earned and paid at the rate of one and one-half times the basic hourly rate. The workweek for overtime purposes begins on Monday and ends at midnight on the following Sunday.

Support staff employees wishing to earn compensatory time must have a verbal or written agreement with their supervisor; otherwise the employee must be paid for the overtime. The supervisor must authorize overtime and compensatory time before time is worked. However, overtime must be paid or compensatory time given for all hours worked over 40 regular hours in a work week whether it is authorized or not. Support staff employees who work overtime without authorization may be subject to disciplinary action.

Employees may earn up to 100 hours of compensatory time. Golf course, grounds and campus police may accumulate up to 240 hours of compensatory time.

Overtime worked over the maximum allowable accumulation must be paid for by the employee's department. Compensatory time off will be granted within a reasonable time after the employee requests it, provided that employee's absence does not unduly disrupt the operations of the department. Employees must use compensatory time off before using annual leave. Terminating employees are paid for their accumulated compensatory hours at their regular rate of pay.

The Human Resources Office, using Fair Labor Standards Act guidelines, determines whether a position is exempt or nonexempt and subject to the provisions of this policy. Exempt employees are not entitled to overtime pay or compensatory time.

## **20. Payday**

Payday for support and professional employees is biweekly (every other Friday). Support staff employees are required to complete an electronic time card to receive their paychecks. Time cards are submitted by the employee, approved by the employee's supervisor or Department Chair or Director, and submitted before the deadline established by the current time card schedule (available in the Payroll Office). Late submission of a time card may result in not being paid until the next payday. EMRTC, Facilities and Bureau of Geology & Mineral Resources employees use the departmental electronic time system to track their time.

New Mexico Tech may require that certain employees clock in and out through a time clock (e.g. Facilities Management employees). All department time cards must be submitted by the same deadline as employees' electronic time; a reminder is sent out every other Wednesday. Both the employee and the authorizing supervisor must approve any changes.

## **21. Employee Benefits**

### **A. General**

New Mexico Tech offers a wide range of employment benefits to its regular and full-time temporary employees and retirees. A full description of the following benefits is available in the Human Resources Office:

- Health, Dental and Vision care
- Life Insurance for employees and their dependents
- Educational Retirement Plan
- Alternate Retirement Plan
- Flex Plan
- Tuition Waiver for employees and their dependents
- Long Term Disability Program
- Employee Assistance Program
- Credit Union
- Tax Sheltered Annuities
- Direct Deposit of Payroll
- Day Care Center
- Gym Privileges
- Use of Tech's Skeen Library
- Use of Tech's Computer Center
- Payroll deduction for Golf Course at a reduced rate
- Swimming Pool, PAS memberships, and Day Care Center fees.

### **B. Employee Benefit Plan**

Regular, regular limited-term, and full-time temporary employees may participate in the New Mexico Tech Employee Benefit Plan that provides health, dental and vision care reimbursement. Life insurance is offered to regular employees. These programs are designed to protect employees and their families from the financial burden of serious long-term illness, disability or death. Information about the coverage and costs of each of these plans is available in the Human Resources Office. Emergency, temporary part-time, temporary services and student employees are not eligible to participate in these plans.

### **C. Retirement**

All eligible employees are required by New Mexico statute to become educational retirement members under the Educational Retirement Act (ERA).

Faculty, senior administrators and specified research staff employed after July 1991 are eligible to participate in the Alternate Retirement Plan. A booklet describing rules and regulations governing membership and retirement benefits is available in the Human Resources Office. Employees hired prior to July 1, 1971, and who exempted themselves from ERA, may revoke the exemption by completing the forms available in the Human Resources Office.

New Mexico Tech and its employees also are required to participate in Social Security programs, and employees are eligible for benefits as provided under the Old Age and Survivors Insurance Program of the federal government. Employees anticipating retirement should contact the Human Resources Office three months in advance of the date they intend to leave.

Eligible retired employees may continue their health, dental, vision care coverage, and life insurance under the New Mexico Tech Employee Benefit Plan by paying the required contribution each month. Contact the Human Resources Office for information.

#### **D. Tuition Benefits**

New Mexico Tech offers to full-time regular and regular limited term employees three tuition-benefit programs. For employees with one year of service, full resident tuition assistance is offered for dependent children who are enrolled as regular full or part-time students. The student must be in good standing to continue the benefit. For purposes of this policy, a dependent is defined as one claimed as a dependent on the most recent federal Internal Revenue Service tax forms.

For employees with one year of service, full resident tuition assistance is offered for dependent children who are enrolled as regular full or part-time students. The student must be in good standing to continue the benefit. For purposes of this policy, a dependent is defined as one claimed as a dependent on the most recent federal Internal Revenue Service tax forms.

The second program allows regular full time employees and their dependents, spouse and dependent children to take up to three credit hours per family each semester. This benefit does not include textbooks or other course fees. Employees may, with the approval of their supervisor, be given administrative time from work to attend a class not to exceed three hours per week. Any course taken during the workday must be for professional development related to the employee's present position. Regular part-time employees (minimum .50 FTE)

who have worked at New Mexico Tech for a minimum of five years may participate in this tuition waiver, as long as it does not interfere with work day responsibilities.

Retirees and spouses are eligible for up to three credit hours of tuition.

Lastly, employees and/or retirees taking non-credit courses through the Community Educational Outreach Program will have one-half of their tuition for those courses waived. Again, these classes must not interfere with regular work day responsibilities.

#### **E. Gym Privileges**

Regular, regular limited term, and full-time temporary employees, employees' spouses, retirees and retirees' spouses, and dependent children under age 21 have access to the gym, its facilities and programs. Eligible persons must apply for a gym privilege card to use the facilities or to participate in programs offered by the Physical Recreation Program. Children (age 11 and under) for their own safety must be accompanied and directly supervised by their parent or other authorized responsible individual aged 21 or older. One guest may accompany authorized gym users (age 21 and over). A person may be signed in as a guest for a fee set by the gym, regardless of age, as long as the person who signs the guest in at least 21 years of age. The sponsor must accompany the guest until the guest leaves.

A valid New Mexico Tech ID card must be presented to use the gym facility and to check out sports equipment. Users with gym privilege cards may check out sports equipment for use in the gym only. Cardholders are responsible for any unreturned or damaged equipment checked out with their ID card or gym privilege card, regardless of the identity of the person presenting it. Lost cards should be reported to the equipment check-out room at once.

All gym users are expected to be familiar with and follow the rules and regulations governing use of the gym. The gym and the Institute are not responsible for personal items that are stolen from the gym.

**F. Swim Center**

The Swim Center is open year-round for lap and recreational swimming. Regular and regular limited term employees, full-time temporary employees, and retirees are eligible to purchase a pass. Spouses, dependent children under the age of 21 of eligible employees, and retirees are eligible for a family membership. Pass forms are available at the Swim Center. Pass purchase is on a yearly basis and is through payroll deduction only. After the first year, payroll deductions continue indefinitely until the Swim Center is notified in writing to discontinue the pass. Retirees pay for their pass when signing up.

**G. Golf Course**

The New Mexico Tech Golf Course offers year-round recreational play as well as tournament play, and course memberships can be purchased annually. Regular New Mexico Tech employees receive a discounted membership when purchased through payroll deductions. The employee's membership automatically will be renewed the following year, and the payroll deductions will continue unless the Golf Course shop is notified in writing to discontinue the membership. New Mexico Tech retirees, spouses and dependent children are eligible to purchase an annual membership at a reduced rate. Both employees and retirees can add family members to their individual membership for an additional fee. For information, contact the New Mexico Tech Pro Shop.

## **22. Leave (Does not Apply to Faculty or Students on Work-Study, GA/TA Contracts)**

### **A. Annual Leave**

Annual leave provides the opportunity to rest and relax away from the pressures of work, to spend time with family and friends, and to gain a fresh perspective towards work. Employees are encouraged to fully utilize their accrued annual leave. Employees are eligible to take annual leave after completing six months of employment. Annual leave is accumulated as follows:

#### a. Accrual of Annual Leave - Support Staff

Regular and regular limited term employees earn bi-weekly leave based on the number of hours worked in each pay period. The formula for calculating annual leave is the number of hours worked in the pay period multiplied by .05769. Generally, regular full-time employees earn approximately 10 hours per month (15 working days per year). The maximum annual leave that can be earned in a year is 120 hours. Regular support staff employees with 10 or more years of continuous service earn annual leave based on the number of hours worked multiplied by .08077, which for full-time employees is approximately 14 hours per month (21 working days per year). For these employees, the maximum annual leave that can be earned in a year is 168 hours.

Support staff employees with less than 10 years of continuous service accumulate annual leave to a maximum of 240 hours or 30 working days. Employees with 10 or more years of continuous service accumulate annual leave to a maximum of 336 hours or 42 working days.

Employees terminating employment with more than six months of service will be compensated for their unused annual leave at their regular rate of pay. Employees with less than six months service will not be compensated for annual leave upon termination.

#### b. Accrual of Annual Leave - Professional Staff

Regular and regular limited term professional employees earn annual leave at the rate of 6.46 hours per pay period on a bi-weekly basis. Part-time professional employees earn annual leave based on the FTE (full-time



equivalency) for their position, e.g., .5, or .75 FTE. The maximum annual leave that can be earned in a year is 168 hours.

Regular part-time employees who are employed on a less- than-12-month basis can utilize their accrued annual leave only during periods of active employment. Annual leave may be accumulated to a maximum of 336 hours or 42 working days. Professional employees with more than six months of service terminating employment will be compensated for their unused annual leave at their regular rate of pay. Employees with less than 12 months service will not be compensated for annual leave upon termination.

c. Procedure for Requesting Annual Leave

Whenever possible, the Institute will grant annual leave to accommodate an employee. However, the work requirements of the Institute must take priority over the scheduling of vacation or other time off for employees. Requests for annual leave should be submitted for approval at least three working days in advance to allow for an adjustment of work schedules. Leave request forms must be submitted to the payroll office prior to the start of the annual leave.

The Institute generally suspends operation between Christmas and New Year's Day, and this time is charged to annual leave. Advance notice will be given if there are any changes in the practice. Employees who work during the holidays will not be charged for annual leave. Employees without adequate accrued leave will have this time off charged to leave without pay. New employees will be advanced enough annual leave to cover the Christmas shutdown period. Annual leave advanced to new employees for the shutdown is charged against future earned leave.

**B. Sick Leave – This policy does not pertain to Faculty**

Loss of income is one of the most critical events that a family or an individual can experience. New Mexico Tech's sick leave program allows employees to accumulate paid sick leave time, thereby assuring an income if the employee is unable to work.

a. Accrual of Sick Leave by Regular Support Staff employees

Regular and limited term support staff employees earn paid sick leave based on the number of hours worked in each pay period. The formula for calculating sick leave is the number of hours worked in the pay period multiplied by .05769. Generally, regular employees earn approximately 10 hours per month (15 working days per year). Earned sick leave is credited the first day of the following pay period in which it is earned. The maximum sick leave that can be earned in a calendar year is 120 hours. Sick leave may be accumulated to a maximum of 1040 hours (130 working days). Temporary, emergency and student employees do not earn sick leave.

b. Accrual of Sick Leave by Regular Professional Employees

Regular and regular limited term professional employees earn sick leave at the rate of 4.62 hours per pay period. Part-time professional employees earn sick leave based on the FTE (full time equivalency) for their position, e.g., .5, or .75 FTE. The maximum sick leave that can be earned in a calendar year is 120 hours.

c. Use of Sick Leave

Sick leave is used for absences due to illness, injury, pregnancy or adoption. With prior supervisory approval, sick leave may be used to cover absences from work for the employee's personal dental and medical appointments and to care for a spouse or dependent school-aged children living in the home. Employees who expect to be off work due to a serious illness, injury, or pregnancy must apply for leave under the Family Medical Leave section of this Handbook.

Employees shall notify their supervisor of an unscheduled absence at least 30 minutes prior to the time they regularly report to work. If the employee is unable to speak to his/her supervisor in person, a message must be left on the supervisor's telephone answering system. This message must be followed up with an employee-to-supervisor call not later than 30 minutes from the time they regularly report to work. Failure to do so may result in an unexcused absence. The supervisor should be informed of the nature of the illness or injury and the expected length of time away from work. Unless other arrangements are made with the supervisor, employees are

expected to call in on a daily basis for the duration of their absence. New Mexico Tech reserves the right to terminate the employment of employees who fail to notify their supervisor for three successive days. Such decisions will be made on a case-by-case basis.

Employees on sick leave for *over 40* consecutive hours are required to submit a physician's statement before returning to work.

When sick leave is exhausted, continued time off will be considered as leave without pay. Annual leave may be used during medical leave of absence after sick leave is exhausted.

Membership in the Employee Benefit Plan is maintained while an employee is on sick leave as long as the employee's share of the contribution is paid. If the employee is placed on sick leave without pay, except under the provisions of the Family Medical Leave Act, the full contribution must be made by the employee in order to maintain coverage.

Employees absent from work due to a job-related illness or injury, and who have accumulated sick leave, will be paid sick leave. To receive this payment, Worker's Compensation payments received for such absence must be signed over to New Mexico Tech and turned in to the Human Resources Office. Upon receipt of the check, the employee's sick leave will be credited by the amount of worker's compensation received. When sick leave benefits are exhausted, the employee may retain future Worker's Compensation checks unless the employee requests that annual leave be used to cover part of the leave. If the employee requests that annual leave be used, the Workers' Compensation check may not be retained until the annual leave is exhausted.

Sick leave will not be paid if the illness or injury results from war, insurrection, rebellion, participation in a riot or civil disturbance, engaging in a criminal act or from intentionally self-inflicting illness or injury.

d. Return from Sick Leave

Employees who have been off work due to illness, injury or pregnancy will, upon presenting a release to return to work from their physician, be returned to the position they left or an equivalent position with equivalent pay, provided they return to work within six months after their leave began. No position will be held open for more than twelve months.

Employees released by their physician to return to work on a restricted basis due to illness or injury may submit a request to return to work to the Human Resources Office. The employee's supervisor and the Human Resources Director will review and evaluate the request with the employee. The following factors will be used in evaluating the request to return to work:

- The employee's work experience, training and education.
- The employee's ability to perform the essential functions of his or her position.
- The opportunity for modifying work methods so the employee can perform the essential functions of the job.
- The employee's ability to work in his or her position on a reduced-hours basis.
- The availability of a vacant position within or outside of the employee's home department that he or she can perform.
- The availability of funds to pay the employee. (If the employee's regular position is filled by a substitute employee, funds for an alternate position may not be available.)
- The status of the work restriction: whether it is permanent or temporary.

Granting or denying the request to return to work on a restricted basis is at the discretion of New Mexico Tech and requires the approval of the Director of Human Resources and consideration of the essential functions of the position to be filled. An employee returning to work on a restricted basis will be paid at the regular rate of pay for the assigned position.

Employees must provide the Human Resources Office with a written release from their physician to return to work on a restricted basis. The physician's statement must state the estimated date the employee is expected to return to unrestricted work.

An employee, who has been on sick leave for more than six months, but less than one year, may return to work providing there is a position available that the employee has the skill, knowledge and training to perform. Employees on sick leave for more than one year will be terminated. These employees may request in writing to return to work. Granting the request is at the discretion of New Mexico Tech and requires the approval of the President.

An employee returning to work after an absence of 30 days or more is expected to give at least three work days advance notice of intent to return to work. Failure to return to work at the end of the leave period, or when released to work by their physician, may result in termination of employment.

*e. Payment for Accumulated Sick Leave -This policy does not pertain to Faculty*

Regular full-time and part-time employees who have completed one year of employment and who are terminating their employment for other than disciplinary reasons will be compensated for their accumulated sick leave, to a maximum of 800 hours, at 50 percent of their regular rate of pay. Tenure track and tenured employees will be paid for their sick leave up to 800 hours accrued prior to February 1, 1986.

Regular full-time and part-time employees (excluding all faculty appointments) may choose to receive payment for unused sick leave hours earned during the immediately preceding calendar year in excess of 600 hours at 50 percent of the employee's regular rate of pay. Employees must select the 600-hour maximum prior to accumulating 600 hours of sick leave. Once 600 hours of sick leave are attained, the maximum of 1040 hours is automatically selected as the maximum sick leave accrual.

Payment for accumulated sick leave for other than terminating employees will be made with the second paycheck in March of each year.

Employees with a reserve sick leave account will continue to have the account maintained. The reserve sick leave hours are available for use once the employee's selected maximum hours of sick leave are used, or in the sick leave buy back at the time of termination or retirement.

Employees should go to the Human Resources Office to request the 600-hour maximum. Employees wanting the 1040 maximum need not make a selection.

## 23. Family Medical Leave

The Family Medical Leave Act of 1993 (FMLA) was passed by the U.S. Congress to permit a qualified employee to take unpaid leave to care for themselves; for the birth, adoption or placement for foster care of a child; and for the care of the employee's child, spouse, or parent with a serious health condition. FMLA leave can be taken for up to 12 weeks in a rolling 12-month period and/or up to 26 weeks for military family leave.

### A. Definitions

1. A *qualified employee* is defined as any employee who has been employed for a minimum of 52 weeks (need not be consecutive), and who has worked at least 1250 hours during the 12 months immediately preceding the leave. There is also a military family provision in the law for to allow for 26 weeks of FMLA.
2. A *serious health condition* is defined as an illness, injury, impairment or physical or mental condition that involves:
  - a. Inpatient care (overnight stay) in a hospital, hospice or residential medical care facility, or any subsequent treatment in connection with such inpatient care; or
  - b. Continuing treatment by a health care provider which includes any one or more of the following:
    - Any period of incapacity, due to the health condition, of more than three consecutive days, and any further treatment or incapacity relating to the same condition; or,
    - Any period of incapacity or treatment due to pregnancy or for prenatal care; or,
    - Any period of incapacity or treatment for such incapacity due to a chronic serious health condition; or,
    - A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective; or,

- Any period of absence to receive multiple treatments by a health care provider or under the orders of a health care provider.

This definition of a serious health condition is not all-inclusive, and there may be other health conditions that qualify for FMLA leave. Contact the Human Resources Office for further information.

Regular employees may request a leave of absence of up to 12 weeks in any 12-month period to care for a newborn child, a newly adopted child, or a child placed in the employee's home for foster care. Spouses employed at New Mexico Tech are jointly entitled to a combined total of 12 weeks of adoption or foster care leave. Sick leave is used to cover all or part of the leave. Employees may request that, when sick leave is exhausted, annual leave be used to cover all or part of the remainder of the leave. When sick leave and annual leave are exhausted, the remainder of the leave shall be leave without pay.

In order to maintain coverage in the Employee Benefit Plan, employees on adoption or foster care leave without pay are responsible for paying the employee portion of any health or life insurance premiums. Premium payments must be made by the first day of the month for coverage to continue.

Employees returning from newborn child care, adoption or foster care leave will be placed in their original position and pay, or in an equivalent position with like pay.

## **B. Requesting FMLA Leave**

An employee should submit a Family Medical Leave Request form as soon as the employee is aware of the need for leave. When the need for such leave is foreseeable, as in the case of adoption, birth or planned medical treatment, leave requests must be submitted at least 30 days in advance of the start of the leave. Family Medical Leave Request forms are available in the Human Resources Office, and the completed form must be returned there. Human Resources will inform the employee of the status of the request as quickly as administrative procedures permit; but, in any case, not later than five working days following receipt of the request in the Human Resources office.



### **C. Medical Certification**

Federal regulations permit and the Institute requires certification by the attending medical provider for any employee's request for FMLA leave for medical reasons. These forms must be submitted along with the request for Family Medical Leave within 15 working days of the start of the leave. Final action on approval of the leave will not be granted until the medical certification form is received in the Human Resources Office. Failure to provide medical certification may result in the leave being denied. Medical certification forms are available in the Human Resources Office. The attending physician and the requesting employee must fully and legibly complete the form.

It may be necessary to recertify the continuing need for Family Medical Leave, but not more often than every 30 days. If the initial certification is for more than 30 days, recertification will not be required until the initial certification period expires.

### **D. Intermittent Leave**

FMLA leave for an employee to care for him or herself, or to care for a specified dependent, may be taken intermittently, as need requires. The employee and the supervisor must work out a schedule and agree on the times to be worked and the time off. This agreement must be in writing and a copy submitted to the Human Resources Office. Employees are expected to notify their supervisor of any changes in need for intermittent FMLA leave.

A long-term need for intermittent leave may require an employee to transfer to an alternate position, if one is available, to accommodate the employee's need for time off. The alternate position will have pay and benefits comparable to the employee's regular position. At the end of the intermittent leave period, the employee will be returned to his or her regular position, or to a comparable position with comparable pay and benefits.

FMLA leave time is charged against accrued sick leave until sick leave is exhausted, and then against annual leave until it, too, is exhausted. The remainder of the leave will be leave without pay.

### **E. Returning to Work from Leave**

Employees returning to work from a FMLA leave of three or more days to care for their own medical condition must present a statement from their physician certifying they are able to resume performing the essential functions of their

position. Employees returning from FMLA leave are expected to inform their supervisor of their plans to return to work.

#### **F. Confidentiality of Medical Records**

Records and documents pertaining to medical certification, recertification or any other medical record are maintained in a separate confidential file. Records shall be available only to the employee and to staff members of the Human Resources Office. The Human Resources Benefits Coordinator must approve any other requests to view these records.

#### **G. Benefits Coverage While on FMLA Leave**

While an employee is on paid FMLA leave, benefits will continue for the duration of the paid leave. If at any point the leave becomes leave without pay, the employee is responsible for paying the employee portion of any health or life insurance premiums. Premium payments must be made by the first day of the month for coverage to continue. Annual and sick leave continue to accrue while an employee is on paid leave. These accruals stop if the leave is or becomes a leave without pay.

#### **H. Retirement**

There are no employee or employer contributions to the retirement plan while an employee is on unpaid leave.

## 24. Leave With Pay (Does not Apply to Faculty or Students on Work-Study, GA/TA Contracts)

### A. Holidays

The regular and regular-term employees of New Mexico Tech enjoy 10 paid holidays each year.

<b>New Year's Day</b>	<b>Thanksgiving</b>
<b>Spring Holiday*</b>	<b>Friday following Thanksgiving</b>
<b>Memorial Day</b>	<b>Christmas Eve Day</b>
<b>Independence Day</b>	<b>Christmas Day</b>
<b>Labor Day</b>	<b>New Year's Eve Day</b>

*\*As determined by administration*

All employees are expected to work the last scheduled workday prior to, and the first scheduled workday following a holiday. Prior approval from the employee's supervisor must be obtained for leave the day prior to and the day after the holiday.

Support employees who are required to work on a scheduled holiday shall be paid one and one-half their regular rate of pay, or given compensatory time off at one and one-half for each hour worked in addition to holiday pay.

Holidays occurring on Saturday will be celebrated on the preceding Friday. Holidays occurring on Sunday will be celebrated on the following Monday.

Regular part-time employees receive holiday pay on a pro-rated basis. Temporary, emergency and student employees are not eligible for holiday pay.

### B. Personal Day

Regular and regular limited term employees receive one paid personal day off of the employee's choice each payroll calendar year. Regular part-time employees receive a paid personal day based on their full time equivalency; that is, one-half or three-quarters of a day. The employee's supervisor must approve the paid personal day at least 24 hours in advance of the start of the requested day. Partial days cannot be used. Personal days are calculated on a calendar year basis and must be used within the payroll calendar year; they cannot be carried forward if not used, and they must be used prior to the last pay period in December.

**C. Jury Duty**

If summoned to appear for jury duty, employees will be paid their regular rate of pay for time served. Any jury duty fees received must be turned in to the Payroll Office.

Employees are expected to return to work if they are released from jury duty prior to 12:00 noon, if jury duty is in Socorro. Employees summoned to serve on jury duty need to provide their supervisor and the Human Resources Department with a copy of the notice to serve.

**D. Witness Duty**

If subpoenaed to appear in court as a witness, an employee will be granted time off with pay provided the employee or employee's family is not a party to the suit. A copy of the subpoena must be provided to the supervisor and Human Resources Department.

**E. Time to Vote**

Employees who are registered voters and are unable to get to the polls due to work requirements will be granted, upon request, up to two hours with pay to vote on the day of the election.

Supervisors will determine how much time and what time of day to let the employee off. Requests for time to vote should be made to the appropriate supervisor prior to the day for which leave is requested.

**F. Military Service**

Employees will be granted leave with pay to attend required Military Reserve or National Guard training not to exceed three weeks annually. Employees are expected to provide their supervisor and with the Human Resources Department with a copy of their orders.

**G. Funeral Leave**

Employees will be granted up to three consecutive days of funeral leave with pay, one day of which must be the day of the funeral, to arrange for and attend

the funeral for members of their immediate family. The employee must complete a Request and Authorization for Leave form; attach a copy of the funeral notice, bulletin, or other acceptable documentation; and submit it to his/her supervisor and the Human Resources Department within three days of returning to work to receive appropriate pay. Failure to submit proper documentation to the supervisor and the Human Resources Department within the designated time period will result in no funeral pay.

Immediate family is defined as any member of the employee's family who resides in his/her home, and any of the following relations to the employee:

spouse	grandparents	daughter-in-law
children	grandchildren	sister-in-law
parents	parents-in-law	brother-in-law
brother	step-children	grandparent-in-law
sister	son-in-law	

**25. Emergency Leave (Does not Apply to Faculty or Students on Work-Study, GA/TA Contracts)**

Employees may be granted up to three consecutive days of emergency leave with pay each calendar year due to life-threatening illness or injury in their immediate family (as defined under funeral leave).

**26. Leave Without Pay (Does not Apply to Faculty or Students on Work-Study, GA/TA Contracts)**

Regular full-time employees may request a leave of absence without pay for up to 30 days. A leave of absence without pay is granted at the discretion of New Mexico Tech, and requires the approval of the appropriate division director. Leave without pay may not be taken in place of annual or sick leave.

Regular full-time employees who have completed 10 years of employment may request an extended leave of absence without pay for up to one year. An extended leave of absence without pay is granted at the discretion of New Mexico Tech and requires the approval of the President.

Regular employees on sick leave who have exhausted their sick and annual leave accrual are placed on leave without pay for up to one year or for a time period equivalent to their length of service from their most recent date of hire, whichever is less.

Employees returning from an authorized leave of absence without pay will be reinstated to their former position or to a like position with similar pay.

While on leave without pay, employees will maintain their accrued benefits, but will not continue to accrue or be eligible for benefits if the leave exceeds four weeks. Employees may maintain their membership in the Employee Benefit Plan by paying the full monthly contribution. Arrangements can be made in the Human Resources Office.

Employees failing to return from leave at the scheduled time shall be considered as having resigned, and their employment will be terminated.

**27. Donated Leave Policy (Does not Apply to Faculty or Students on Work-Study, GA/TA Contracts)****A.****Purpose**

The Donated Leave Policy establishes procedures for the administration of voluntary transfer of annual and/or sick leave within New Mexico Tech. The purpose of the policy is to enable regular employees the opportunity to request donated sick and/or annual leave when they are diagnosed with a catastrophic medical condition, or a life-threatening medical emergency or injury defined as unexpected, non-elective, and so severe as to require medical treatment that prevents them from working due to the seriousness of the medical condition.

**B. Procedure/Eligibility**

The program applies only to regular employees of New Mexico Tech. The regular employee cannot be in his/her introductory period. This policy does not cover employees' family members.

- An employee wishing to participate in the voluntary annual and/or sick leave transfer program must submit a written request to the Human Resources Department.
- A physician or licensed medical professional must complete a verification of illness form. Granting a request for voluntary annual and/or sick leave transfer is contingent upon the submittal of adequate medical documentation.
- The employee will be expected to return to duty on the date specified in the verification or certification form. Employees will not earn vacation, sick or personal leave while on donated leave.
- If, when a request for donated leave is submitted, and the employee's leave balances are soon to be exhausted, the employee must request leave without pay for the time period between the request and the donated leave use. Employees should, when possible, request the donated leave a month in advance of exhausting all available annual, sick, compensatory and personal leave.



- Upon receipt of all completed pertinent documents, Human Resources will evaluate the request and determine eligibility based on medical severity and other relevant factors.
- If donated leave is unused by the recipient, it will be reinstated by prorating the remaining leave among donating employees.
- A regular employee, as defined above, may request donated leave once per rolling 52-week period.
- The maximum number of hours of donated leave that can be requested and/or used by an employee is 320 hours (40 days) of leave. Hours and/or days of leave will be prorated to equal 40 days of leave for regular part-time employees.

**C. Voluntary Donation of Leave**

- Donation of leave is strictly voluntary.
- The leave recipient must have exhausted all paid leaves.
- The donating employee must maintain a minimum balance of 120 hours of sick leave, and 80 hours of annual leave after the annual leave donation is made. Leave must be donated in eight-hour increments (one work day).
- The donation of annual leave will be requested of employees only within the requesting employee's department and/or division.
- Annual leave donated will be converted to a dollar value based on the donating employee's rate of pay and then converted to hours based on the recipient's hourly rate of pay.

**28. Absenteeism (Does not Apply to Faculty or Students on Work-Study, GA/TA Contracts)**

As an employee, you will be treated as a professional, which means that you will be expected to conduct yourself according to professional standards, which include good attendance. All employees should arrive at their workplace on time, work their shift, and leave at the scheduled time as an essential function of their job. Good attendance is an integral part of every employee's job description and performance evaluation. Unscheduled absences pose a serious hardship on the department's operations and co-workers, and are deemed an unacceptable practice. An employee who demonstrates frequent unscheduled and patterned absences (whether for a partial or full day) will be subject to disciplinary action up to, and including, termination.

**A. Definitions**

- **Excused absence:** Any absence that has been authorized by this handbook, federal/state law or otherwise approved by an appropriate authority, e.g., supervisor.
- **Unexcused absences:** Any absence or tardiness that has not been approved in accordance with the procedures set forth in this handbook, federal/state law or otherwise approved by an appropriate authority, e.g., supervisor.

Employees whose tardiness and/or absences are deemed inexcusable will be subject to disciplinary action up to and including termination. Disciplinary action for unexcused absences or tardiness based on any rolling 12-month period will be administered as follows:

- Two or more unexcused absences during any rolling 12-month period: **verbal warning**
- Four or more unexcused absences during any rolling 12-month period: **written warning.**
- Six or more unexcused absences during any rolling 12-month period: **termination.**

**29. Telephones**

Employees should use their own mobile phones to make personal outgoing calls during breaks, meal periods; or at other times with their supervisor's permission. Long-distance calls or collect calls of a personal nature, and not relevant to New Mexico Tech business, may not be charged to New Mexico Tech.

Use of New Mexico Tech phones is for New Mexico Tech business. All calls using Institute business lines may be reviewed and costs for such calls will be charged back to the employee. Excessive use of New Mexico Tech-paid time and the use of its phones to conduct personal business constitute theft of New Mexico Tech time and will be grounds for disciplinary action up to and including termination.

## **30. General Safety and Health Policy**

### **A. General Objectives**

New Mexico Tech is committed to providing a safe and healthy workplace for all its employees. The Institute complies with all applicable requirements issued by the state of New Mexico and the federal Occupational Health and Safety Administration (OSHA); and implements a site-specific safety and health program for each of its facilities. Management and all employees share the responsibility for the success of the safety and health program.

The objective of the safety and health program is to reduce or eliminate disabling injuries and illnesses. It is the policy of New Mexico Tech to exercise precautions necessary to protect employees from accidents. Management firmly believes that most accidents are preventable.

Managers and supervisors are responsible for instilling safety awareness both in them and in those they supervise. Managers and supervisors must ensure that all operations are performed with the utmost regard for the safety and health of all employees involved, including themselves.

Employees are responsible for wholehearted, genuine cooperation with all aspects of the safety and health program, including compliance with all rules and regulations. Employees are encouraged to be alert to unsafe conditions, and to report them promptly to their manager, supervisor, or safety coordinator. Employees also are responsible for continuously practicing safety proficiency while performing their job duties.

Failure to comply with New Mexico Tech's safety and health policies and practices may result in disciplinary action up to and including termination of employment.

### **B. Vehicle and Equipment Operation**

Only authorized employees are permitted to operate any of New Mexico Tech's motor vehicles or equipment. Authorization to operate these vehicles will be granted by appropriate personnel only after training and/or passing a defensive driving test every four years; and only after the employee has demonstrated competence and responsibility.

### C. Equipment Maintenance and Use

Equipment is expensive and may be difficult to replace. When using equipment, employees are expected to exercise care, to perform required maintenance, and to follow all operating guidelines. Supervisors must be notified if any equipment, machines, tools, or vehicles appear to be damaged, defective, or in need of repair. Damages, defects, and the need for repair must be promptly reported to prevent deterioration of equipment and possible injury to employees or others. The supervisor can answer any questions about an employee's responsibility for maintenance and care of equipment or vehicles used on the job.

The improper, careless, negligent, destructive, or unsafe use or operation of equipment or vehicles can result in disciplinary action, up to and including termination. In the event of an accident involving the operation of a University vehicle or equipment, an employee may be required to undergo drug screening as soon as possible after the accident. Likewise, violation of New Mexico Tech's safety rules is considered a serious matter, and also will result in disciplinary action, up to and including termination.

Safety glasses and hearing protection are mandatory when operating certain equipment or machinery. A supervisor will inform any employee assigned to operate such equipment or machinery of these requirements. Protective guards must be in place on all machines. Floors and work areas are to be clean. Loose-fitting clothing or long hair must be safely secured before operating any machines with moving parts.

**31. Accident Reporting**

If you witness an accident on New Mexico Tech property, immediately notify Campus Police (575-835-5434). If you can do so without serious risk of injury to yourself, promptly take steps to safeguard your coworkers and New Mexico Tech property. This action will set in motion the sequence of events necessary to prevent any additional harm; to ensure that first aid may be rendered; and to initiate transportation to emergency care locations. Any New Mexico Tech employee involved in an accident on Institute property or while on Institute business may be tested for the presence or usage of alcohol, drugs, or any other intoxicating substance as soon as possible.

Moreover, if you sustain any accidental injury at work, no matter how minor it may appear, you must notify your immediate supervisor immediately, so that New Mexico Tech staff may complete any required forms, as well as to determine whether you should be sent for emergency medical treatment. By promptly notifying appropriate New Mexico Tech staff, you also will protect your rights to worker's compensation benefits.

**32. Firearms**

It is unlawful and against university policy for anyone to carry a firearm on University premises except for:

1. A peace officer;
2. University security personnel;
3. Student, instructor or other University-authorized personnel engaged in Army, Navy, Marine Corps or Air Force reserve officer training corps programs or state-authorized hunter safety training program;
4. Individual conducting or participating in a University-approved program, class or other activity involving the carrying of a firearm; or
5. Individual aged 19 years or older on University premises in a private automobile or other private means of conveyance, for lawful protection of the person's or another's person or property, pursuant to New Mexico State Statute 30-702.4.

As used in this policy, university premises means: (a) the buildings and grounds of a university, including playing fields and parking areas of a university, in or on which university or university-related activities are conducted; or (b) any other public buildings or grounds, including playing fields and parking areas that are not university property, in or on which university-related and sanctioned activities are performed.

**33. Children in the Workplace**

New Mexico Tech values an atmosphere that fosters a healthy balance between workplace obligations and family issues; however, New Mexico Tech does not allow children of employees to be cared for at the workplace. New Mexico Tech encourages departments to cooperate with employees who need to meet family responsibilities by using breaks or lunch hours, or vacation leave. New Mexico Tech understands that brief and infrequent visits by children of its employees occur for a variety of reasons; however, the frequent, regular or extended presence of children during work hours is not allowed.



**34. Personal Pets (Domesticated or Undomesticated), Marine or Land Reptiles, Birds, Rodents, on NMT Property**

This policy applies to anyone working or visiting the New Mexico Tech campus, including faculty, administrators, staff, temporary employees, visitors, or any other persons who access University buildings, facilities, grounds, and campus. This policy does not apply to students and residential life policies regarding animals and pets.

The presence of domesticated or undomesticated animals, personal pets, other related animals, marine or land reptiles, birds or rodents on New Mexico Tech property may cause a nuisance, or could be offensive to some persons. In some circumstances, the presence of such animals has the potential to be a safety hazard, or to display unpredictable or uncontrollable behaviors, and thus could contribute to accidents in the workplace.

It is prohibited for any domesticated or undomesticated personal pet, other related animal, marine or land reptile, bird or rodent to be brought in to any New Mexico Tech building with the exception of service dogs of persons with disabilities. Any person who brings any animal onto New Mexico Tech grounds will be responsible for using a leash and for cleaning up any waste created by the animal, e.g., fecal matter. The only person who can make an exception to this policy is the President of New Mexico Tech.

A violation of this policy by any Tech employee can result in disciplinary action. Violation by a non-employee of Tech can result in a ban from bringing his/her animals on Tech grounds.

This policy does not apply to service animals for those employees that require their assistance.

**35. Drug-Free Workplace**

New Mexico Tech is a recipient of federal grants and contracts in excess of \$100,000 and is subject to the provisions of the Drug-Free Workplace Act of 1988, the special Drug-Free Workforce rules promulgated by the Department of Defense, and the Drug Free Schools and Communities Act. The Board of Regents has directed the President to institute and maintain programs that meet the requirements of federal drug and alcohol regulations. These programs are administered through the Office of Human Resource Services.

**General Policy Prohibiting Drugs and Alcohol on NMT Property:** The unlawful possession, manufacture, use, or distribution of illicit drugs and alcohol on its property or as part of any of its activities is prohibited and a violation of university policy. University property is defined as all lands and building under the control of the Board of Regents. It is a federal requirement and a university policy that, as a condition of employment, an employee will notify the immediate supervisor within 10 days after conviction of a criminal drug offense occurring in the workplace. Supervisors will inform the Office of Human Resource through appropriate channels, of any notifications received.

**Disciplinary Sanctions for Employees:** Employees who violate the university's alcohol or drug policies are subject to termination, demotion, or suspension. Additionally, employees may be required to report to the Employee Assistance Program for a clinical assessment and participate in a recommended counseling/rehabilitation program. When returned to work, the employee must comply with all university policies and maintain acceptable job performance or be subject to appropriate disciplinary action.

**36. Sexual Misconduct and Title IX Offenses Policies (Sexual Assault Reporting Procedures – (also see Appendix D))****A. Overview**

The federal gender equity law, Title IX of the Education Amendments Act of 1972, protects people from discrimination based on sex in education programs and activities that receive federal financial assistance, including New Mexico Institute of Mining and Technology. The law states:

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”

Examples of the types of discrimination that are prohibited under Title IX include sexual harassment, sexual assault, stalking, the failure to provide equal opportunity in academics, athletics & other programs, and discrimination based on pregnancy. Title IX is enforced by the U.S. Department of Education’s Office for Civil Rights.

New Mexico Institute of Mining and Technology is currently reviewing its Title IX procedures and is in the process of developing updated policies and protocols to address sexual misconduct and discrimination in all its forms.

During this period of review, the University has established the following temporary Sexual Misconduct and Title IX offenses Policy:

**B. Misconduct and Title IX Offenses Policy**

New Mexico Tech is committed to maintaining a healthy and safe learning, living, and working environment which promotes responsibility, dignity, and respect for all persons. Sexual harassment, sexual violence, and all forms of gender- and sex-based discrimination are strictly prohibited and will not be tolerated.

Examples of conduct of a sex or gender-related nature that may constitute a violation of this policy may include, but are not limited to:

- a. Rape, sexual assault, sexual battery, sexual coercion, sexual exploitation, stalking, or any form of sexual violence including any act where consent is not affirmed;

- b. Unwelcome sexual advances, regardless of whether they involve physical touching (e.g. gestures made toward another for sexual gratification);
- c. Sexually explicit or gender-based statements, comments, questions, jokes, innuendoes, anecdotes, or gestures;
- d. Use of technology, electronic mail or computer dissemination of gender-based communications or sexually explicit images;
- e. The posting of pornography or other sexually explicit materials in University offices, classrooms or any other public area owned or controlled by the University;
- f. Requests for sexual favors in exchange for actual or promised job or educational benefits.

As New Mexico Tech augments its policies and procedures to more effectively address sexual misconduct, the University will work toward adopting specific definitions of various aspects of prohibited conduct including: sexual harassment, hostile environment, sexual assault, domestic violence, dating violence, sexual exploitation, stalking, retaliation and intimidation. In the interim, the University will reference the language and definitions found in existing discrimination policies as well as all applicable local, state and federal laws.

For the purposes of this interim policy, the University has adopted the following definition of consent:

**CONSENT:** “The affirmative, unambiguous, and voluntary agreement to engage in a specific sexual activity during a sexual encounter.”

Under this definition, an individual who was asleep, or mentally or physically incapacitated, either through the effect of drugs or alcohol or for any other reason, or who was under duress, threat, coercion, or force, would not be able to consent. Further, one would not be able to infer consent under circumstances in which consent was not clear, including but not limited to the absence of “no” or “stop,” or the existence of a prior or current relationship or sexual activity.

Title IX offenses can occur on-campus or off-campus at any academic, educational or other University/University-related program. Offenses can occur between students, faculty/staff to student, student to faculty/staff, or faculty/staff to faculty/staff. Complaints may also involve visitors, consultants, independent contractors and outside vendors whose conduct affects any member of our

community on campus or in a University/University related program. Any person, regardless of gender, can be a victim or survivor. Title IX offenses include criminal offenses, such as rape, fondling, domestic violence, dating violence, and stalking, and can also include violations of the University's Guide to Conduct and Citizenship.

New Mexico Tech is dedicated to preventing Title IX Offenses by providing:

- Awareness and prevention programming.
- Assistance and support for students and employees affected by violence and other forms of discrimination or harm, including interim support measures.
- Prompt Attention -- Complaints of sexual harassment and any form of discrimination will be taken seriously and dealt with promptly and equitably. Where offenses are found to have occurred, New Mexico Tech will act to stop the reported conduct, prevent its reoccurrence, remedy its effects and discipline those found responsible.
- Processes for reliable and impartial investigation and adjudication that includes appropriate disciplinary sanctions for those who commit Title IX offenses, including limiting access to campus facilities, suspension and dismissal.

The University in its view and response to Title IX offenses will be blind to the sexual orientation or preferences of individuals engaging in sexual activity or sexually exploitative behavior.

Any retaliatory action or behavior taken toward an alleged victim as a consequence of the decision to report a violation, pursue University judicial review, or criminal charges is prohibited. Retaliation by either alleged victims or persons accused may result in immediate judicial action and/or criminal charges. All University protocols employed and under review will comply with applicable state and federal laws. Typically, when responding to reports of Title IX offenses the University will:

- Provide guidance and information for students and/or employees who have been victims/survivors of Title IX offenses.
- Provide guidance and information for persons who have been accused of Title IX offenses.
- Outline the University's student and/or employee disciplinary response to alleged conduct violations.

- Identify relevant places within the University and community for support and compliance related to Title IX offenses.

Under Title IX, all parties involved have the right to have any complaints of discrimination or sexual harassment directed to their institution's Title IX Coordinator.

All questions and/or concerns should be directed to Director, Affirmative Action and Compliance Office, New Mexico Institute of Mining and Technology, 801 Leroy Place, Socorro, NM 87801; or by telephone or email. The Director of Affirmative Action and Equal Employment Opportunity will serve as the University's primary Title IX Coordinator.

The Title IX Coordinator can help victims (students and/or employees):

- Access medical and mental health treatment.
- Report offenses to police.
- Report offenses to the Dean of Students/Vice President for Student and University Relations (SUR) for disciplinary action.
- Access victim support resources.
- Assist persons in obtaining a University no contact order, a court-issued restraining order, or other lawful order of protection.

New Mexico Tech encourages anyone who has been the victim of a Title IX offense to report the incident and report the identities of the person or persons they believe to have committed the offense. The University will conduct an investigation and/or file a disciplinary complaint regardless if criminal charges are made. A criminal investigation and a University investigation may be pursued at the same time. A person charged with sexual misconduct, including acquaintance or date rape, can be prosecuted under New Mexico criminal statutes. Even if the law enforcement authorities choose not to prosecute, the University can pursue disciplinary action. Victim/survivor support and resources are available regardless of criminal charges, University investigations or University disciplinary action.

New Mexico Tech encourages victims of sexual violence to seek support and obtain medical attention. The University will make every effort to be responsive and sensitive to victims of crimes. Protection of victims and prevention of continued trauma is a priority. If a victim of an accused student lives in the same University residence as the accused student, the option of altering living arrangements will be offered.

Upon request, assistance with any academic concerns will be reviewed and options provided by the Vice President of Academic Affairs or his/her designee. During the disciplinary process, all involved individuals have the right to have an advisor of their choice accompany them throughout the hearing process.

### **C. Confidentiality**

New Mexico Tech encourages victims of sexual violence to talk to somebody about what happened so victims can get the support they need and so the University can respond appropriately. The University recognizes that confidentiality is important. However, complete confidentiality cannot be guaranteed.

According to guidance from the Federal Office of Civil Rights, a “responsible employee” has an obligation to report Title IX violations to the University’s Title IX Coordinator. At New Mexico Tech, a “responsible employee” is anyone working directly for the University who has the authority to take action to address sexual violence or whom a student or employee could reasonably believe has the authority or duty of reporting or responding to incidents of sexual misconduct.

Therefore, University faculty, administrators and other professional staff who receive information involving known or perceived sexual misconduct must report it to our designated Title IX Coordinator, even if little information is known. To the extent possible, information reported to a responsible employee will be shared only with the Title IX Coordinator. The responsible employee will not share personally identifiable information with Campus Police or other law enforcement without the victim’s consent or unless the victim has also reported the incident to law enforcement.

While the University will make every reasonable effort to protect the privacy of any and all victims, it is important for all New Mexico Tech students and employees to understand that currently the University’s Counseling & Disabilities Office in Fidel is the only location on campus where disclosures of sexual assault may be made confidentially to the Student Health Center/Office of Counseling & Disabilities. Other individuals who work or volunteer in the offices can generally talk to a victim without revealing any personally identifiable information about an incident to the Title IX Coordinator. A victim can seek assistance and support from the medical personnel and support staff in the Student Health Center/Office of Counseling & Disabilities without triggering a University investigation.

Victims who chose to disclose information related to sexual assault or harassment to the Student Health Center/Office of Counseling & Disabilities may be asked if they would consent to their information to being shared with the Title IX Coordinator and/or Campus Police through normal reporting procedures or anonymously. The purpose for sharing such information is to better protect the community and promote a healthy and respectful culture on campus.

Off-campus resources also are available for victims who wish to disclose confidentially. A victim who speaks to a professional or non-professional counselor or advocate must understand that, if the victim wants to maintain confidentiality, the University will be unable to conduct an investigation into the particular incident or pursue disciplinary action. Even so, the victim will still be assisted in receiving other necessary protection and support.

A victim who at first requests confidentiality may later decide to file a complaint with the University, or report the incident to local law enforcement.

#### **D. FERPA**

The Family Educational Rights and Privacy Act (FERPA) protects students' educational records, including reports made to the Coordinator and disciplinary complaints. FERPA prohibits the University from releasing these records to persons outside the institution without the student's consent except in response to a lawful subpoena or other special circumstances as required by law. As required by law and in compliance with the Department of Education, New Mexico Tech will notify alleged victims of crimes of violence or non-forcible sex offenses of the outcome of University disciplinary proceedings and any sanctions imposed to either party.

#### **E. Timely Warning Alerts/Emergency Notification**

If a report of a Title IX offense reveals there is an immediate threat to the health or safety of students or employees on campus or that an on-going serious or continuing threat to the campus community exists, an Emergency Notification or a Timely Warning will be issued. The purpose of a Timely Warning is to enable persons to protect themselves, heighten safety awareness, and seek information that will lead to an arrest and conviction of the perpetrator.



The victim's name and other personally identifying information will NOT be included in any Emergency Notification or Timely Warning.

Reports of sexual assault, domestic violence, dating violence, and stalking will be included in the University's Annual Security and Fire Safety Report/Crime Statistics at <http://www.nmt.edu/campus-police>.

**37. Solicitation Policy**

Solicitation by an employee for any cause or organization is prohibited during his/her working time. Distribution of literature, offers to sell goods, and offers to provide services on Institute property by employees is prohibited. Non-employees are not permitted to solicit or distribute literature or offer goods and services for sale.

**38. Gifts**

As an employee of New Mexico Tech, do not ask for nor accept any gifts from vendors.

**39. Personal Appearance**

Dress, grooming, and personal cleanliness standards contribute to the morale of all employees, and affect the professional image that New Mexico Tech conveys to those persons who come in contact with this Institute. During business hours and at any New Mexico Tech function, employees are expected to present a clean and neat appearance, and to dress according to the requirements of their positions and the function. Employees who appear for work inappropriately dressed may be sent home and directed to return to work in proper attire.

Examples of inappropriate attire include:

- Ripped, frayed or disheveled clothing or athletic wear
- Tight, revealing or otherwise workplace-inappropriate dress
- Clothing deemed unsafe in specific work environments; i.e., open-toed shoes in laboratories

Supervisors should communicate any department-specific workplace attire and grooming guidelines to staff members during new-hire orientation and evaluation periods. Any questions about the department's guidelines for attire should be discussed with the immediate supervisor.

New Mexico Tech recognizes the importance of individually held religious beliefs to persons within its workforce. Accommodation of religious beliefs in terms of attire may be difficult in light of safety issues for staff members. Those requesting a workplace attire accommodation based on religious beliefs should be referred to the Human Resources Department.

#### **40. Conflict of Interest**

New Mexico Tech is committed to maintaining the highest standards of ethics and integrity in all of its academic, research, and administrative operations, by promoting such standards among its regents, administrators, faculty, staff, students and others acting on behalf of the university or its affiliated entities. Everyone is to be aware of and comply with all applicable laws, regulations, and university policies. When involved in research activities, all individuals must recognize all requirements of any contract or grant applicable to the research.

In maintaining an ethical institution, all individuals shall exercise the utmost good faith in all transactions with and on behalf of the university. This includes being entirely honest in their relationships impacting the institution and shall not use any knowledge gained from their relationship with the institution to benefit themselves whether or not there is a resulting adverse impact to the institution.

In complying with maintaining the ethical standards deserving of institution of higher education, all individuals shall respect the rights, values and contributions of others; maintain the confidentiality of private or proprietary information to the extent required by law; never act or fail to act in a manner that may appear to create a personal benefit; and avoid at all times supervising or making decisions involving friends or family members.

All University assets and resources shall only be used in furtherance of university goals and not for personal gain or benefit.

At such time as any individual realizes or should have realized their actions conflict with this policy it shall be immediately reported to their administrative head for immediate action consistent with this policy.

To assist in complying with this policy, the Vice Presidents of Research and Economic Development, Administration and Finance, Student University Relations/Dean of Students, Academic Affairs and Directors of the Petroleum Recovery Research Center, Energetic Materials Research and Testing Center, and Bureau of Geology & Mineral Resources shall develop appropriate administrative policies and procedures to guide their respective constituents.

It is the policy of New Mexico Tech that employees shall not use their University positions to secure personal financial benefits for themselves or any member of

their immediate family. A conflict of interest arises whenever the employee has the opportunity to influence University operations or business decisions in ways that could result in a personal financial benefit to the employee, or to a member of an employee's immediate family. Although specific examples of conflicts of interests are provided in Attachment A of this Handbook, they are meant to be illustrations, and supervisors and employees are expected to use good judgment to identify possible conflicts of interest and to manage such as to not adversely influence New Mexico Tech operations. Nothing in this conflict of interest policy shall be construed to permit, even with disclosure, any activity that is prohibited by law.

- An employee shall disclose to his/her unit supervisor any situation in which the employee has a real or potential conflict of interest. The supervisor shall recommend to the President as to how the conflict should be managed to ensure that the Institute is not improperly influenced or adversely affected.
- Employees have a responsibility to immediately disclose real or potential conflicts of interest, and supervisors have a duty to manage the conflicts in the best interests of the Institute.
- Each situation regarding potential conflict of interest should be brought to the attention of the President for approval or denial, if deemed necessary.

See Appendix A for: Definitions, Examples of Conflict of Interests, and Prohibited Activities.

**41. Outside Employment (Does not Apply to Faculty or Students on Work-Study GA/TA Contracts)**

New Mexico Tech employees may hold jobs with other organizations as long as he/she satisfactorily performs his/her job responsibilities at New Mexico Tech and there is not a conflict with his/her New Mexico Tech job responsibilities. All employees will be judged by the same performance standards, and will be subject to New Mexico Tech's scheduling demands regardless of any outside work requirements.

If New Mexico Tech determines that an employee's outside work interferes with the employee's performance at the Institute, and that his/her ability to meet the requirements of his/her job, the employee may be asked to terminate his/her outside employment if they wish to remain with New Mexico Tech. All employees with outside employment are required to inform their supervisor about their outside employment.

## **42. Personnel and Medical Records**

### **A. Personnel File**

New Mexico Tech Human Resources Department maintains a personnel file on each employee. The purpose of this file is to allow us to make decisions and take actions that are personally important to you, including notifying your family in case of an emergency, calculating deductions and withholdings, and paying for appropriate insurance coverage.

Your medical records or work eligibility forms are not kept in your personnel file. These records are kept separately. If you have any questions about your personnel file, please contact the Director of Human Resources.

### **B. Confidentiality of Personnel Records**

Because information in your personnel file is by its nature personal, we keep the file as confidential as possible.

### **C. Changes in Personal Information**

Because we use the information in your personnel file to take actions on your behalf, it is important that information of a personal nature be accurate. Please notify the Human Resources Department of any changes to the following:

- Your name
- Your mailing address
- Your telephone number
- Your dependents
- Number of dependents you are designating for income purposes
- Your marital status
- Name and telephone number of your emergency contact
- Restrictions on your driver's license

### **D. Access to Personnel File**

Current employees who want to inspect their personnel file must make an appointment with the Human Resources Department. The Human Resources Department will determine at what time and date a Human Resources staff member can meet with the employee while the employee reviews his/her file. Nothing may be taken from the file without permission from the Human Resources staff member. Letters of reference will not be reviewable to employees.



**E. Access to Medical Files**

Only current employees may inspect their medical information however, they must make an appointment with the Benefits Administrator, who will determine a time and date to meet with the employee, while the employee reviews his/her information. Nothing may be taken, but information can be copied from the file.

**43. News Media**

The official spokesperson for New Mexico Tech is the President, or the person designated by the President to speak to the news media. Academic, research and other related topics are excluded from this policy.

**44. Response to a Reference Inquiry**

Requests for employment information for previous New Mexico Tech employees should be referred to the Human Resources Department. References and/or recommendations for current or former students and employees can be provided by current New Mexico Tech employees with a disclaimer that such reference/recommendation expresses the opinion of the referee and not necessarily that of New Mexico Tech.

**45. Honesty Policy**

New Mexico Tech expects its employees to conduct themselves in an honorable fashion. The University considers honesty an important attribute. Therefore, any misrepresentation of facts or falsification of records, including applications/resumes, personnel records, medical records, leaves of absence documentation, or the like, will not be tolerated. The same honesty standard applies to any Institute investigation. Any violations will result in disciplinary action up to and including termination.

**46. Performance Appraisal Program (Does not Apply to Faculty or Students on Work-Study, GA/TA Contracts)**

The primary purpose for performance appraisal at New Mexico Tech is to assist employees in achieving their highest potential for productivity. To achieve a high level of work performance, employees first must understand what they are supposed to be accomplishing in their job, i.e., identifying their performance goals.

Second, expected performance levels in carrying out their job responsibilities need to be defined, so that employees know and understand the criteria being used to measure their performance.

Finally, employees need to:

- Know how well they performed their responsibilities and met expectations,
- Have their positive and productive behavior reinforced, and
- Be given suggestions and direction for improving their performance.

The absence of any one of these elements could adversely affect performance and productivity. The performance appraisal program at New Mexico Tech, therefore, is designed to provide all of these elements.

The performance categories, in conjunction with the job description, provide the employee with an understanding of what he/she is supposed to accomplish in the position; the evaluation measures how well the employee performed; and the supporting comments describe the criteria used to evaluate both the employee's performance and the performance achieved. The appraisal form also provides space for future performance planning. Performance objectives for the following year, or other time period, are described in this section. Because evaluations are not relevant to the grievance process, establishing mutually agreeable performance objectives is one of the most important aspects of the appraisal process.

The Annual Performance Review will be conducted during the first quarter of the year. A copy of the annual performance review will be placed in the employee personnel file. An employee in a new position, or whose position or performance is undergoing change, may need more frequent evaluation than one who has remained in the same

position for a long time. The schedule for evaluating performance at New Mexico Tech is as categorized:

**A. New employee**

Temporary and regular employees are evaluated during the introductory period. Thereafter, evaluations will usually be conducted during the first quarter of each calendar year (months of February and March). Employees may conduct a self-appraisal, and then meet with their supervisor to develop the final appraisal. If there is disagreement regarding the employee's performance, the supervisor's appraisal shall prevail.

**B. Employees evaluated as marginal performers:**

This time period is three to six months following a marginal performance evaluation. Supervisors may wish to conduct appraisals outside of those regularly scheduled. This action generally is appropriate when there is a noticeable change in employee performance; a significant increase or decrease in effort and achievement; or a change in responsibility. Appraisals also should be conducted whenever prescribed goals are accomplished, or when conditions change that prevent an employee from achieving agreed-upon goals. Additional appraisal forms are available for this purpose from the Human Resources Office.

Every formal appraisal must be performed by the employee's immediate supervisor at an employee-supervisor conference. The purpose of the conference is to ensure that the employee understands the evaluation. The conference also provides the employee and the supervisor with an opportunity to discuss the employee's job, how it fits into the organization, and what steps can be taken to improve performance. The supervisor (on the appraisal form under "Additional Comments") summarizes the significant points discussed. The employee also is encouraged to add any comments or objections about the appraisal in the section entitled "Employee Comments." If there is disagreement regarding the employee's performance, the supervisor's appraisal shall prevail.

At the conclusion of the performance conference, the employee and the supervisor should agree as to what the employee's work is to entail over the next rating period; by what criteria the work will be evaluated; and what the employee can do to improve his/her performance.

The Director of Human Resources can provide assistance and advice in the performance evaluation process whenever requested.

Performance appraisals are not relevant to the grievance process.

**47. Immigration Policy****A. Purpose**

To establish and maintain a uniform policy regarding the administration and petition of H-1B and J1 petitions to enable individuals wishing to work in the United States to acquire legitimate visas allowing lawful employment in the United States.

To fulfill New Mexico Tech's responsibility as an employer to those employees requesting status as permanent residents.

**B. Policy and Procedures**

New Mexico Tech may establish and maintain H-1B and J-1 petition policies and procedures for the purpose of petitioning the United States Citizenship and Immigration Services (USCIS) for legal authorization to allow an individual the privilege of legally acquiring and maintaining employment while in the U.S.

Departments in need of Immigration and Naturalization Services (INS) will utilize their own Institutional/Departmental funds, and be solely responsible for any resultant charges levied for such services. Contractual funds can be used only if the prospective non-immigrant hire is needed specifically for fulfilling a contractual role.

Special funding to pay for visa application services may be obtained from other sources, but only when provided the requesting department properly justifies its request and obtains permission from the President of New Mexico Tech.

**C. Outline of Procedures for Obtaining Visas Including Processing Fees:**

1. *J Visa* – No fee is charged for processing paperwork for a visitor to acquire his/her J status. Human Resources will process the requisite form (DS-2019), and ensure that the visitor receives it. FedEx fees will be charged to the applicable department.
2. *H-1B Visa* – The I-129 petition packet is submitted to USCIS for approval to grant H-1B status to the visitor, thereby allowing his/her legal employment in the U.S.

The I-129 petition requires processing fees. In addition, USCIS requires a supplemental fraud and prevention fee. If the petition must be expedited, a premium processing fee will be assessed.

- If dependents of the visitor already live in the U.S., form I-539 must be completed and attached to request a status change for dependents.
- The I-539 form requires a processing fee, which is the only fee a visitor must pay.

3. *Permanent Residency (PR)* – New Mexico Tech does not generate any of the petitions, documents, or mandated fees for an employee to obtain his/her PR status. **Exception:** Effective July 16, 2007, the Department of Labor (DOL), [www.foreignlaborcert.doleta.gov/](http://www.foreignlaborcert.doleta.gov/), amended its regulations pertaining to employers' responsibilities towards the acquisition of Permanent Labor Certification applications. Before the employer can submit an immigration petition to the Department of Homeland Security (through USCIS), the employer must obtain:

- An approved labor certification request from the DOL's Employment and Training Administration (ETA). The DOL must certify to the USCIS that there are no qualified U.S. workers able, willing, qualified and available to accept the job at the prevailing wage for occupation in the area of intended employment.
- This required fee will be absorbed by the department where the individual seeking PR status is employed.
- An employer's transfer to the alien beneficiary of the employer's incurred costs in the labor certification or application process is strictly prohibited. The following steps are required when an employee is interested in applying for his/her PR status:
  1. An initial request to Human Resources must be submitted in writing.
  2. A form will be generated to the responsible department to notify it of the upcoming charges, and requesting account numbers to be charged.



3. The Human Resources Department then will forward this request to an immigration attorney for processing.
4. The charged fees for this service then will be assessed to the individual department.
5. Fees for this service vary.

The President has the sole discretion to approve the hire, and to initiate processing all Immigration and Naturalizations of H-1B and J-1 visas and PR requests. Any offer of employment is contingent upon an applicant being able to provide the Human Resources office with required documentation proving eligibility to legally work in the United States.

For assistance with employment of faculty/staff under the H-1B, J-1 Visas categories, contact Human Resources.

## **48. Smoking on Campus**

Described herein are policies and procedures designed to reduce the hazards of Environmental Tobacco Smoke (ETS) to non-smokers and to comply with the New Mexico Clean Indoor Air Act, House Bill 48 (1985) as amended.

Smoking tobacco products is prohibited in all Institute buildings, facilities and vehicles. Smoking also is prohibited during organized indoor and outdoor events held on Institute property. This policy also applies to other smoking preparations, such as clove and e- cigarettes.

### **A. Smoke-Free Buildings – Smoking is Prohibited In or At:**

- All buildings and facilities including classrooms, offices, food service venues, lavatories, and most residence halls, in accordance with Institute Residential Life policies,
- Corridors, elevators and enclosed walkways,
- Institute-owned vehicles, and
- Indoor and outdoor athletic or other Institute-sponsored or designated events.

### **B. Outdoor Smoking Areas**

Smoking is only permitted outdoors on Institute property except during specified organized events. Individuals choosing to smoke outdoors must remain 25 feet away from doorways, open windows, enclosed walkways and ventilation systems to prevent smoke from entering enclosed buildings and facilities. To accommodate students, faculty, staff and visitors who do smoke, designated smoking areas will be provided, and marked by signs.

Anyone who chooses to use smokeless tobacco on campus must discard such waste in a sanitary manner.

### **C. Sanctions for Violations**

Students, faculty, and staff violating this policy are subject to disciplinary action. The success of reducing ETS requires consideration and cooperation between smokers and nonsmokers.

### **D. Information on Smoking**

The Institute will provide information and educational services to students, faculty and staff upon request.

**49. The Internet, Email and Other Online Services**

Online services, such as access to the Internet and social networks, are communications tools for preparing, sending and retrieving electronic information and messages on personal computing devices. These systems are provided for business purposes; usage for personal purposes is a privilege and only permissible within reasonable limits. Use of these systems for conducting a business, exchange of or viewing pornographic materials, or for activities contrary to law or New Mexico Tech policies is prohibited.

All email and Internet records are considered to be Institute records and should be transmitted only to individuals who have a business need to receive them. Additionally, Institute records, email and Internet records are subject to disclosure to law enforcement or government officials, or to other third parties through subpoena or other processes. Employees should always ensure that Institute information contained in email and Internet messages is accurate, appropriate and lawful. Email and Internet messages by employees may not necessarily reflect the views of New Mexico Tech's officers or directors. Abuse of the e-mail or Internet systems, through excessive personal use, or use in violation of law or New Mexico Tech policies, will result in disciplinary action and/or loss of access to New Mexico Tech's computer systems.

While New Mexico Tech does not intend to regularly review employees' email and Internet records, employees have no right or expectation of privacy in email, Internet and social network activity. New Mexico Tech owns the computer and software making up the email and Internet systems, and permits employees to use them in the performance of their duties for the Institute. Email messages and Internet records are to be treated like shared paper files, with the expectation that anything in them is available for review by authorized representatives of the Institute. Employee email messages, Internet, and social network records may be disclosed to law enforcement or government officials, or to other third parties, without notification to or permission from the employee sending or receiving the messages and records.

Employees also should be aware that log-on and other passwords may not be shared with any third party, nor may they be shared with another employee, unless such password(s) is requested by an authorized officer of the Institute.

Electronic mail, voice mail and files on New Mexico Tech-owned or operated systems are presumed to be private and confidential unless they have explicitly been made available to other authorized individuals or as required by law. Their

contents may be accessed only by authorized personnel for compelling New Mexico Tech business or security reasons. All other requests for records should be submitted to the Custodian of Public Records. To maintain information security and data integrity, information for University-related academic business and staff, all work data must be stored on a New Mexico Tech-owned technology resource.

New Mexico Tech employees with access to confidential information are expected to maintain confidentiality.

**50. Disciplinary Action (Does not Apply to Faculty or Students on Work-Study, GA/SA Contracts)****A. General Purpose of Disciplinary Action**

The purpose of disciplinary action is to address and take corrective action for improper behavior. For example:

- Unacceptable workplace behavior/conduct or unsatisfactory performance.
- Violation of Equal Opportunity policies.
- Violation of New Mexico Tech rules, policies, and procedures.
- Immoral, indecent, or outrageous behavior, including conduct at off-premises events sponsored by New Mexico Tech.
- Falsification of New Mexico Tech records.
- Deliberate damage to or theft of New Mexico Tech property, or property of New Mexico Tech employees.
- Sleeping on the job.
- Willful disobedience, insubordination or failure to carry out reasonable orders or directives from appropriate management personnel.
- Dishonesty, deception or fraud.
- Violation of safety rules.
- Failure to cooperate in an investigation.
- Tampering with or removing New Mexico Tech-authorized notices.
- Willful misuse of sick leave privileges.
- Gambling on New Mexico Tech premises.
- Willfully endangering the health, welfare and safety of themselves or other persons. Carrying firearms, explosives or other weapons on New Mexico Tech property is prohibited.
- Reporting to work under the influence of, using, or distributing in any way alcohol or any other controlled chemical substance on New Mexico Tech property.
- Acts of aggression and violence, including fighting, threatening actions, bullying (abusive workplace behavior), use of abusive or profane language. See Appendix C for definition of bullying.
- Fraudulent worker's compensation claims.
- Stealing from fellow employees, students, the Institute or others.

- Theft, misappropriation of funds, and/or unauthorized use or removal of New Mexico Tech property.

In addressing these issues, it is essential that every supervisor thoroughly investigate each situation as it occurs so that all the facts are known. The dignity of the employee is to be respected throughout the investigative process and any resultant disciplinary action, if applicable. This procedure does not apply to those situations covered by the "Regulations Governing Academic Freedom and Tenure." Each employee who is scheduled to lose pay, including an involuntary termination, shall be given a memo stating that he/she has the right to appeal and the opportunity to meet with the Division Director or his/her designated representative and to state why the contemplated action should not go forward.

## **B. Disciplinary Action for Unsatisfactory Performance or Unacceptable Workplace Behavior**

When an employee's performance does not meet New Mexico Tech standards, progressive discipline shall be applied in most cases. This shall not prevent imposition of more serious disciplinary action including termination depending on the severity of the action.

### 1. Verbal Warning/Counseling

The first step in disciplinary action is for the supervisor to verbally warn and counsel the employee about the problem. This discussion should be conducted privately and in a pleasant manner. The supervisor's first objective is to determine if the employee understands the rules, standards, and acceptable levels of performance to be met. The supervisor must explain fully what is expected of the employee, including citing specific examples of acceptable levels of performance; as well as how the performance will be measured. Dates, times and examples of unacceptable performance must be provided for the employee. This step is designed to give the employee the opportunity to correct the substandard performance, not to threaten or discipline him/her.

### 2. Written Reprimand

With this step, the procedure becomes part of the employee's personnel file/work record. The supervisor shall contact Human Resources to discuss the personnel issue prior to giving the written reprimand. The reprimand includes a formal meeting with the employee and a witness if possible where the supervisor:

- Cites example of unacceptable behavior, including details of incident
- Reiterates standards the employee must meet for success on the job, how the employee has not met these standards, and
- Sets forth a specified period of time for improving the unsatisfactory performance, as well as identifying specific tasks that need improvement.
  - The supervisor will indicate that failure to improve the performance to an acceptable level within the time period specified will result in further disciplinary action which may include suspension or discharge. The employee's signature indicates receipt of the plan of action, but does not necessarily indicate agreement with it.
  - A letter confirming the meeting is mailed to the employee's home within 48 hours of the meeting.
  - The original letter with the employee's signature is sent to the Human Resources Office. The supervisor retains a copy.

### 3. Disciplinary Suspension

If the employee's performance still does not meet requirements within the time specified, the supervisor, with the prior concurrence of the Director of Human Resources, proceeds to the next step – disciplinary suspension. Again, the supervisor meets with the employee to discuss the substandard performance and why he/she is being placed on suspension. Disciplinary suspension includes up to a three-day suspension from work without pay, usually occurring on Tuesday, Wednesday and Thursday. The employee is expected to work the day before and after the suspension. The suspension letter will indicate that continued failure to correct the substandard performance within a specified time period after the employee returns from suspension will result in termination. Letter distribution is the same as for the written reprimand.

### 4. Termination

If the employee's performance does not meet the prescribed standards within the time specified in the disciplinary suspension, the employee will be notified that he/she will be terminated on a specific date. Prior to termination the employee will be given:

- The opportunity to prepare a letter of appeal within 5 working days to respond to the written notice and will be informed that he/she has the opportunity to meet with the employee's division director or another person designated by the division director. After the scheduled meeting, the division director or his/her designated person may terminate the employee if there are grounds to believe that evidence referred to in the written notice is correct, or he/she may refer the employee back to his/her department for alternate action. This exercise of the right of appeal supersedes the grievance procedures within this handbook.
- As previously mentioned, an employee may face immediate suspension, pending termination for certain extreme situations.

### C. Campus Police and EMRTC Employees

In addition, Campus Police officers and security officers may be suspended with pay, pending consideration of discharge for violations of the Officer Code of Conduct.

EMRTC employees may be suspended without pay, pending consideration or discharge if their security clearance is denied or revoked.



**51. Complaint Resolution (Does not Apply to Faculty or Students on Work-Study, GA/TA Contracts)**

This complaint procedure is available to any regular employee, other than during the introduction period, for the resolution of any disagreement or problem arising out of New Mexico Tech's policies, procedures or actions as they apply to an employment relationship.

Any retaliatory action of any kind taken by any New Mexico Tech employee against another employee as a result of such employee seeking to resolve a complaint, cooperating in the investigation, or otherwise participating in any proceedings under these procedures is prohibited and is subject to disciplinary action up to and including termination. Persons who have been terminated from employment with New Mexico Tech do not have access to this procedure after the effective date of their termination.

Complaints relating to hiring, work day and assignments, performance evaluations, disciplinary actions, pay, and demotion are designated as "management rights;" and, as such, are not subject to this procedure, unless such action was based on the recipient's race, color, religion, national origin, color, physical or mental disability, veteran status, medical condition, age, spousal affiliation, sexual orientation, or gender identity. Any employee including those in the introductory period including emergency employees who feel they have been discriminated against may file a complaint alleging discrimination. It shall be filed with the Director of Equal Opportunity and Affirmative Action.

Faculty matters are covered under "Regulations Governing Academic Freedom and Tenure;" therefore, the Grievance/Complaint process does not apply to faculty.

The grievance/complaint process is as follows:

1. The employee must initiate the complaint process by discussing the problem or disagreement with his/her immediate supervisor within 10 working days of the event upon which the complaint is based; or when he or she became aware of the issue of which they are complaining.
2. If the grievance/complaint is not resolved through discussions listed above, the complainant then must submit the complaint in writing to the Director of Human Resources within 10 working days of the last

meeting with the supervisor. The Human Resources Director, with the assistance of the Director of Equal Opportunity and Affirmative Action, shall conduct an investigation into the complaint; or will conduct mediation between the disputants. The findings of the investigation and recommendations shall be forwarded to the parties involved within 10 days of receipt of the written complaint unless an alternate timeline is agreed upon.

3. If the complainant is not satisfied with the responses from the Director of Human Resources/Affirmative Action, the grievance may be submitted to the President of the Institute. The President shall appoint a grievance committee comprised of five members and two alternates, including two employees from the support group, and two from professional staff, which includes faculty. The President shall appoint one of the members to chair the committee and to conduct the grievance meetings and review. Either party to the grievance may challenge one member of the committee 48 hours prior to the meeting of the committee. An alternate will replace the challenged member.
4. The grievance committee shall meet within five working days of the appointment of the President for the purpose of initiating the grievance review. The committee shall interview parties to the grievance and review all pertinent documents. Parties to the grievance may submit evidence and may examine and cross-examine witnesses. Any third party witness or representative must be a current employee of New Mexico Tech. The grievance committee shall render its recommendation in writing to the Division Vice President/Director\*. The Division Vice President/Director shall render a decision on the committee's recommendation in a timely manner. If the complainant wants to appeal the decision of the Vice President/Director, the complainant must appeal in writing within 10 days of receiving the decision. The President will review the grievance and all relevant materials, and shall accept, modify or reject the recommendations of the grievance committee and the Vice President/Director's decision. The action of the President shall be final and binding on all parties.

The grievance process will not be used in the case of termination but the employee may use his/her appeal rights as outlined in the Disciplinary Policy.

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\* Directors are those from the Energetic Materials Research and Testing Center (EMRTC), the Bureau of Geology and Mineral Resources (Bureau), and the Petroleum Recovery Research Center (PRRC).

**52. Intellectual Property/Patents and Copyrights**

New Mexico Tech has adopted policies regarding data, patents, copyrights and intellectual property that include both technological and scientific work, and scholarly/artistic works. This policy resides in the Academic Affairs Division/Office of the Vice President and can also be found on the New Mexico Tech website.

**53. Consulting Policy**

New Mexico Tech encourages its staff to interact with state, federal, and private organizations in addressing problems by utilizing their special expertise. Such interactions may be implemented via grants or contracts through the Institute, through the New Mexico Tech Research Foundation, or by private consulting arrangements between staff members and the funding source. The Institute prefers to use the mechanism of grants and contracts via standard procedures channeled through its business office. Such arrangements allow for the use of state-owned facilities, graduate and undergraduate students, secretarial help, telephone, postage, etc., by either direct compensation or through overhead charges. The Institute recognizes, however, that some activities involving relationships between staff and private companies may best be handled through a privately negotiated consulting contract; for example, expert testimony given in legal proceedings from which the Institute and the State of New Mexico must be totally isolated.

The Institute has on its staff a wide range of professionals with an extensive variety of duties. The staffs of the College, Research and Economic Development offices, the New Mexico Petroleum Recovery Research Center, and the New Mexico Bureau of Geology & Mineral Resources, because of their different public and Institutional responsibilities, cannot be uniformly covered by a common consulting policy. Variables, such as length of service year, access to proprietary information, previous salary adjustments in lieu of consulting, and certain public responsibilities, preclude an Institute-wide policy. Accordingly, the policy outlined in the following text is restricted, as indicated. Individual (persons and cases) exceptions to this policy may be requested through the vice presidents and division directors to the President, but generally will be granted only in extraordinary cases.

1. Private consulting shall not be done by full-time professionals of the Research and Economic Development Division (except the Vice President for Research and Economic Development) or the Energetic Materials Research and Testing Center. Lectures at other academic (non-profit) institutions, service on state and federal committees, and other public service efforts for which honoraria may be received are not considered private consulting.

2. Professionals in the collegiate division may consult subject to the limitations set forth as follows:
  - Private consulting may be done for up to a total of 15 working days (Monday through Friday except holidays) during the nine-month academic year. A person on an 11-month appointment may consult for a total of 18 days. In either case, no more than three working days a month shall be spent consulting. Persons with part-time regular appointments in the collegiate division may spend consulting time pro rata (e.g., someone with a 0.5 FTE appointment may spend up to seven or eight days per academic year consulting). Consulting time does not accrue beyond an academic year.
  - Consulting arrangements must be approved in advance by the department chair and the Vice President for Academic Affairs. These two persons also shall ensure that arrangements are made to reimburse the Institute at standard rates for use of facilities and personnel.
  - As previously stated, the Institute strongly prefers that consulting arrangements be implemented via grants and contracts through the business office or the New Mexico Tech Research Foundation. Such arrangements should be made whenever possible.
  
3. Consulting by staff of the New Mexico Petroleum Recovery Research Center shall be governed by the following:
  - Consulting will be done only while on annual leave or outside of regular working hours.
  - There must be no conflict of interest between the consulting services and responsibilities to perform services related to oil or gas recovery in the State of New Mexico, as stated and defined in the charter which established the PRRC.
  - No outside consulting on enhanced recovery will be done in connection with oil and gas recovery in the State of New Mexico.
  - The consulting arrangements must be approved in advance by the Director of the PRRC and the President of the Institute.

4. Consulting by staff of the New Mexico Bureau of Geology & Mineral Resources shall be governed by the following:
  - Consulting will be done only while on annual leave or outside of regular hours and may not exceed 120 hours per year.
  - Work must be conducted only for out-of-state organizations, with no conflict of interest, real or perceived, between the consulting services and any Bureau interests, contracts, or ongoing analytical services.
  - No proprietary or confidential information in the possession of the Bureau will be involved in the study.
  - The consulting arrangement must be approved in advance by the Director of the Bureau or his/her designee and the President of the Institute.
  
5. Consulting by the President and all Vice Presidents
  - a. Consulting will be done only while on annual leave or outside regular hours, and may not exceed 120 hours per year.
  - b. The consulting arrangement must be approved in advance by the President of the Institute or his/her designee.
  - c. Any consulting or honoraria beyond per diem/travel and other de minimis compensation involving the President of the Institute must be approved in advance by the President of the Board of Regents.
  
6. Statutory Prohibition on Unlawful Employee Participation and Contemporaneous Employment

The prohibitions on unlawful employee participation, and on contemporaneous employment set forth in New Mexico Statutes Annotated 13-1-190, 13-1-193, and 13-1-194, respectively, resident of

the Institute and by the President of the Institute, with respect to any other employee, that:

- a. The financial interest or contemporaneous employment of the employee has been publicly disclosed;
- b. The employee will be able to perform his/her procurement functions without actual or apparent bias or favoritism;
- c. The employee participation is in the best interests of New Mexico Tech.

With regard to Sections 4, and 6 above, when applicable, New Mexico Tech will be compensated appropriately for any facilities, equipment, or supplies used. The Director of Finance shall determine what fees and rates shall be assessed, and whether it is more appropriate that arrangements be made to receive cost reimbursement for such activity. De minimis use of the New Mexico Tech communication system (telephone, facsimile, and electronic mail, etc.) in support of authorized contract or research programs is not subject to this provision.

**54. Conclusion**

Thank you for taking the time to read your handbook. It was prepared to help give you a better understanding of the policies and procedures that govern the employment relationship at New Mexico Tech. Please feel free to call the Human Resources Department if you have any questions about any of the topics covered, or if you have suggestions on how the Handbook can be improved or made more useful.



**55. Acknowledgement of Receiving Handbook**

The Employee Handbook is provided so that you can become familiar with the policies and procedures that govern the employment relationship. None of the provisions in this handbook shall be construed to create any implied or express warranty or contract of employment for any period of time or at any wage or salary or create any contractual obligation on the part of the Institute or employee. If you have questions about any of the provisions in this handbook, contact the Human Resources Office or your supervisor.

This handbook cannot be ignored, modified or varied by any oral representation or written statements without the express written approval of the President of the Institute.

This Employee Handbook supersedes all other handbooks. Please sign your name below. Your signature indicates that you have received a copy of the handbook, and that you understand that it is your responsibility to read it. If you do not understand the handbook, it is also your responsibility to contact the Human Resources Office to ask for assistance.

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Employee Signature

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Date

## Appendix A: Conflict of Interest

### A. Definitions

1. *Conflicts of Interest* occur when an employee or immediate family member receives personal financial benefit from the employee's Institute position in a manner which may inappropriately influence the employee's judgment, or compromise the employee's ability to carry out New Mexico Tech responsibilities, or that could be a detriment to New Mexico Tech's integrity.
2. *Immediate family* includes the employee's parents, spouse, domestic partner, dependent children and stepchildren claimed for income tax purposes.
3. *Personal financial benefit* is defined as anything of monetary value, including but not limited to currency, commissions, fees, honoraria, equity interests, interests in real or personal property, dividends, royalty, capital gains, intellectual rights, and forgiveness of debt.

### B. Examples of Conflicts of Interest Requiring Employee disclosure

1. **A conflict exists when an** employee or immediate family member owns, in whole or in part, a business entity with which the Institute does or proposes to do business, and the employee is in a decision-making role or otherwise is in a position to influence New Mexico Tech's business decisions regarding the business entity. Business entity **examples** for which the employee's disclosure is required:
  - a. Finance or accounting services
  - b. Athletic equipment services
  - c. Consulting
  - d. Counseling
  - e. Catering
  - f. PC or other hardware services
  - g. Legal services
  - h. Architectural services
  - i. Grant preparation
  - k. Printing Services

2. When an employee holds or assumes an executive, officer or
3. When an employee participates in consultation activities for any business or entity.

#### C. Prohibited Activities

The following activities are prohibited:

1. Using New Mexico Tech property, facilities, equipment or other resources in any manner that results in personal financial benefit to an employee or a member of an employee's immediate family.
2. Using University property, facilities, equipment or other resources in any manner to support a not-for-profit entity unless special permission is provided by the President of the Institute.
3. Using New Mexico Tech stationery or letterhead in connection with outside activities, other than activities having a legitimate relationship to the performance of New Mexico Tech business.
4. Using University facilities or the employee's position at New Mexico Tech for the purpose of advocating, endorsing, or marketing the sale of any goods or services, other than as part of the employee's responsibilities at New Mexico Tech, without approval of the appropriate Vice President.
5. Using New Mexico Tech's name or logo for personal business or economic gain to the employee or a member of the employee's immediate family.
6. Using any New Mexico Tech data or information for personal financial benefit to the employee or the employee's immediate family.
7. Using any New Mexico Tech employee for any outside activity during normal working hours for which he/she is receiving compensation from the University.
8. Participating in the selection of awarding of a contract between New Mexico Tech and an entity where an employee is seeking employment or has been offered employment.
9. Other activities deemed by the President of the Institute to be an activity with a present or potential conflict of interest.

**Appendix B: Inappropriate Workplace Behavior (Bullying)**

Workplace bullying (abusive workplace behavior) means conduct, including acts, omissions or both, that a reasonable person would find hostile, based on the severity, nature, and frequency of the perpetrator's conduct. Workplace bullying may include, but is not limited to: repeated infliction of verbal abuse such as the use of derogatory remarks, insults, and epithets; verbal or physical conduct of a threatening, intimidating, or humiliating nature; the sabotage or undermining of an employee's work performance; or attempts to exploit an employee's known psychological or physical vulnerability. A single act normally will not constitute bullying.

Here are some examples of behavior which may be associated with workplace bullying:

1. Name calling
2. Verbal or written abuse
3. Exclusion from activities
4. Physical abuse
5. Coercion
6. Gossip
7. Lies
8. Falsely accusing someone
9. Laughing at or mocking a person
10. Exhibiting uncontrollable mood swings in front of someone
11. Constant criticizing of a person's work without defensible cause
12. Picking on a targeted employee
13. Setting a person up to fail
14. Use of condescending or demeaning language

**Appendix C: Operating a New Mexico Tech Vehicle**

New Mexico Tech may authorize an employee or non-employee under certain circumstances, who possesses a current valid New Mexico driver's license, and who has completed a defensive driving course or orientation, to operate a state vehicle. The employee must have the appropriate class of driver's license to drive any state vehicle that is not a passenger vehicle.

Only authorized passengers may occupy a state vehicle. The department director may suspend or revoke the vehicle operator privileges of any New Mexico Tech employee who permits a person who is not an authorized to operate a state vehicle. In addition, the employee may be held personally liable to the extent permitted by law for any liability for personal injury, death or property damage arising out of the unauthorized use or occupancy of the New Mexico Tech vehicle.

No person shall use a state vehicle for private use. Any domicile-to-duty must be approved and on file in the division office.

New Mexico Tech shall offer defensive driving classes and refresher courses.

No person shall operate a state vehicle under the influence of alcohol, controlled substances or drugs. No person shall transport intoxicating alcohol of any type, whether in opened or unopened containers, while operating or occupying a state vehicle. No person shall smoke or use smokeless tobacco products in any state vehicle.

No person shall possess a weapon while operating a state vehicle unless they are a certified enforcement officer on duty.

No pets are allowed in state vehicles.

All drivers and occupants of state vehicles shall wear seatbelts.

An authorized driver shall file a police accident report for any auto accident in a state vehicle as soon as possible, especially if there is property damage, bodily injury, or the authorized driver possibly is at fault. The authorized driver shall provide a copy of the police accident report to the Human Resources Department and to his/her supervisor. When possible, the authorized driver shall submit to a drug screening immediately following any vehicle accident.

## Appendix D: Sexual Assault Reporting Process

If you or someone you know has been sexually assaulted, please consider telling someone what happened:

- Notify New Mexico Tech Campus Police at: 575.835.5555. Campus Police is located in the Student Activities Center (SAC).
- Notify Tech's Dean of Students at: 575.835.5880. The dean is located on the second floor of Brown Hall.
- Notify Tech's Title IX Coordinator at: 575.835.5206. The coordinator is located in the Office of Human Resources, Brown Hall.
- Notify a Residential Life Coordinator, a Resident Assistant, or talk to a trusted professor or administrator.
- Talk with a Provider or Counselor at the Student Health Center/Office of Counseling & Disabilities Office, 1st floor Fidel:  
575.835.5094/575.835.6619

### A. Process and Options for Students

#### **Option 1: Pursue internal (University) disciplinary action.**

- Legal options and support will be explained by NMT Campus Police.
- The Dean of Students will explain college judicial process, options and support.
- Federally mandated notice may be sent to campus community by Campus Police.<sup>1</sup> Name(s) of complainant(s) will not be disclosed.
- Physical evidence can be collected by police.
- All relevant witnesses can be interviewed by police.
- Investigation can take several days to several weeks, based on circumstances.
- Upon completion of the investigation, reports are forwarded to the Dean of Students for follow-up and possible adjudication.
- Dean of Students receives investigation report and witness testimony in regards to the charges pending.
- Victims, suspects, and witnesses are notified of any college adjudication.
- The accuser and the accused are equally entitled to have others present during any college disciplinary proceeding.
- Both the accuser and the accused shall be informed of the outcome of any institutional disciplinary proceeding brought alleging a sex offense.

**Option 2: Pursue criminal charges**

- Investigation is conducted by NMT Campus Police.
- Upon completion of the investigation, report is forwarded to the Socorro County District Attorney for possible prosecution.

**Option 3: Pursue both internal and criminal charges**

- Process outline in Option 1 and 2 occur simultaneously.
- Internal college judicial and criminal adjudication processes occur independently.

**Option 4: Report assault, but choose not to pursue charges at present time**

- A “no contact order” may be issued between complainants and suspect (if known).
- Federally mandated notice may be sent to campus community by NMT Campus Police. *Name(s) of complainant(s) will not be disclosed.*
- The stated time, date and location of the assault and any additional related crimes will be reported in Tech’s crime log and statistic records as mandated by The Clery Act<sup>1</sup>. Names will remain anonymous.

**Important Considerations**

Counseling is strongly encouraged in all cases.

Medical treatment is recommended as appropriate.

Complainant may elect to continue with the process or stop at any time.


Complainant may choose not to participate in the formal process and instead decide to approach a counselor.

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<sup>1</sup> The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, commonly referred to as the Clery Act, requires higher education institutions to collect, report and disseminate crime data to the campus community and U.S. Department of Education; to provide warnings of reported crimes that represent a threat to the safety of students or employees "in a manner that is timely and will aid in the prevention of similar crimes"; and to make public their campus security policies and procedures. Crime Alerts are usually posted for the following crimes: arson, aggravated assault, homicide, robbery, and sex offenses. Crime alerts may also be posted for other classifications as deemed necessary. Crime Alerts are posted through electronic mail and the posting of bulletins at various locations on campus when a crime has occurred and there is a possibility that an outstanding suspect could pose a danger to the campus community.

**Policy Signature and Approval Document**


Legal Review (if applicable):

Signature	Title	Date
		5-14-15

Campus Community Review Dates:

30 Calendar Days

Approval by Chair of President's Policies and Procedures Committee (if applicable):

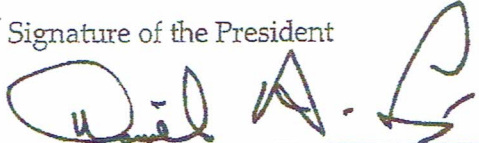
	HR Director	5-8-15
Signature	Title	Date

Approved by Sponsoring Division Head

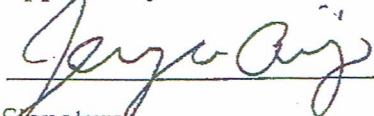
	Pres.	5-8-15
Signature	Title	Date

Approved by President:

Approved on this date by Dr. Daniel H. López, President, New Mexico Institute of Mining and Technology. Minor editorial revisions may be made. Content of this policy cannot be changed.

Signature of the President	Date
	5-8-15

Approval by Chair of the Board of Regents (if applicable):

	Sec/Treas	5/11/15
Signature	Title	Date