

NMMI HUMAN RESOURCES POLICIES AND PROCEDURES MANUAL





New Mexico Military Institute Human Resources Manual

Employment Manual Version Control

Change Date	Section	Change	App. Date
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Change Date	Section	Change	App. Date
01072016a	6.08 EMPLOYER PROVIDED HOUSING	Sec 5.6, add requirement to obtain approval from Director of Facilities for any alterations	01072016
03062015a	6.19 COMPASSIONATE LEAVE DONATION	New Policy	03062015
12012014a	5.01 HARASSMENT/DISCRIMINATION	Update to align with Campus SaVE Act	12012014
06192013a	6.18 STAFF DEVELOPMENT PROGRAM	New Policy	06192013
12182012a	6.17 INTERIM ASSIGNMENT ADDITIONAL COMPENSATION	New Policy	12182012
03302012a	6.16 DISCOUNTED TUITION FOR DEPENDENTS	New Policy	03302012

Note The content of a manual does not constitute nor should it be construed as a promise of employment or as a contract between NMMI and any of its employees.

NMMI at its option, may change, delete, suspend, or discontinue parts or the policy in its entirety, at any time without prior notice.

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SECTION 1: ABOUT THE ORGANIZATION



POLICY	POLICY NUMBER
<u>Introduction</u>	1.01
<u>Mission and Vision Statements</u>	1.02

1.01 INTRODUCTION

General

This Policies and Procedures Manual collects in one place, the human resources philosophies and policies and procedures of NMMI. This manual is designed to be a working guide in the day-to-day administration of human resource programs in a way that supports a positive work environment at NMMI. Managers and supervisors are expected to become familiar with these philosophies, policies and procedures and to apply them consistently so that all employees, regardless of work area, location or shift assignment, are treated fairly.

This manual policies and benefit descriptions are not terms of employment, nor is the language intended to establish a contract between NMMI and its faculty and staff members.

Welcome

Welcome to the New Mexico Military Institute! We are happy to have you as a new member of our family!

The mission of NMMI is to educate, train and prepare young men and women to be leaders capable of critical thinking and sound analysis, leaders who possess uncompromising character and leaders able to meet challenging physical demands.

History

New Mexico Military Institute is the nation's oldest state-supported co-educational college preparatory military high school and junior college.

On September 3, 1891, the Goss Military Academy was founded through the efforts of Captain James C. Lea and Colonel Robert Goss with an initial enrollment of 28 students, including female students. The school was the first in New Mexico to adopt military features. The Academy was later made a territorial school and received its current title of New Mexico Military Institute in February 1893.

In 1906, the Reserve Officer Training Corps (ROTC) was introduced. In 1909, the War Department designated the Institute as one of the ten distinguished military schools in the nation, a distinction the Institute has earned annually since.

In 1915, the Institute took on its modern form when the junior college was inaugurated. The Institute now had a four-year high school and a two-year junior college. NMMI quickly became recognized throughout New Mexico and the nation as a pioneer in education and the development of young people. In 1977, full-time female students were "re-enrolled" and their numbers have steadily grown since.

Changes in Policy

This manual supersedes all previous employee manuals and memos. While every effort is made to keep the contents of this document current, this manual is not all-inclusive and the information it contains is to be used as guidelines. NMMI reserves the right to change, amend or terminate any of its human resources policies and/or benefits plans at any time for any reason.

1.02 MISSION AND VISION FOR HUMAN RESOURCES

Strategic Plan

NMMI's Human Resource department plays an integral part in supporting the Strategic Plan. The Human Resource department has established its vision and mission to align its services and outcomes with the overarching mission of the Institute. Goals and objectives are developed to support the mission related outcomes and are included as a section in this manual to communicate the expectations and results to the stakeholders.

Vision Statement

NMMI's Human Resources strives to offer the best quality of programs geared to satisfy the needs of the employees, while maintaining a balance to also satisfy NMMI's prosperity, which includes the consideration of its mission, focusing on its employees. The NMMI Human Resources strives to provide excellent services in a timely, efficient, and confidential manner.

Mission Statement

NMMI's Human Resources' mission is to attract, recruit, and retain a diverse qualified workforce, focusing on maintaining high quality services to faculty, staff, cadets, parents and other entities to meet NMMI standards. Services include staffing, training, compensation, and benefits administration.

SECTION 2: EMPLOYEE DEFINITION AND STATUS



POLICY	POLICY NUMBER
<u>Employment Classification</u>	2.01
<u>Probationary Period for New Employees</u>	2.02

2.01 EMPLOYMENT CLASSIFICATION

1. Employee Fair Labor Standards Act Designation

The Fair Labor Standards Act, as amended, classifies employee positions as either “exempt” or “nonexempt.” The classification of a position determines how an employee may be paid, among other things, for hours worked in excess of forty (40) hours per week and whether or not they are subject to the wage and overtime provisions of the Fair Labor Standards Act. The Human Resources Director determines which positions will be “exempt” or “nonexempt.” (The FLSA can be found at the [United States Department of Labor](#) web site.)

2. Exempt Employee

“Exempt” employees are salaried employees and are paid on the semi-monthly payroll and are exempt from the minimum wage and overtime provisions of the Fair Labor Standards Act. “Exempt” employee positions include such positions as directors, managers, and professional staff. This list is for illustrative purposes only and is not meant to be all-inclusive.

3. Nonexempt Employee

“Nonexempt” employees are subject to the minimum wage and overtime provisions of the Fair Labor Standards Act. They are entitled to premium compensation for overtime work. “Nonexempt” employee positions include such positions as secretarial, clerical, maintenance, and service workers. This list is for illustrative purposes only and is not meant to be all-inclusive.

4. Employee Categories

- 4.1. Tenured-faculty members are personnel hired on a tenured-faculty contract. (See Faculty Handbook)
- 4.2. Non-tenured-faculty members are personnel hired on a non-tenured faculty contract. (See Faculty Handbook)
- 4.3. Probationary faculty members are personnel hired on tenure track faculty contract. (See Faculty Handbook)
- 4.4. Professional staff is hired on a contract basis, either full-time or part-time, to fill positions requiring executive or administrative skills.
- 4.5. Support staff
 - 4.5.1. Technical or classified employees are hired on either a contract or hourly basis, either full-time or part-time, to fill positions requiring technical or clerical skills.
 - 4.5.2. General staff whose functions are not described in 1.2.4A are hired on either a contract or hourly basis, either full-time or part-time.

Employees hired on a contract basis serve for a specific period of time. The responsibility associated with the position is judged to be such that NMMI must reserve

the right to renew or not renew the contract of the incumbent in the position when such contract expires. Contracts are normally written for one (1) year terms. See “Expiration of Contract” in section 4.07 Separation of Employment.

5. Full-Time, Part-Time, Temporary Employee

- 5.1 Regular Full-Time: An employee hired for indefinite time, scheduled to work 40 hours or more per week over a minimum period of nine (9) months per year.
- 5.2 Regular Part-Time: An employee hired for an indefinite time, scheduled to work less than 30 hours per week over a minimum of nine (9) months per year.
- 5.3 Externally Funded: Employees (such as federal contacts, grants, etc.): An employee hired to work for a definite time as spelled out by the funding source. These employees will receive benefits, retirement, etc., if funds are contracted in the grant.

6. Temporary and Occasional Employees (Time-Sheet)

- 6.1. Temporary Full-Time: An employee hired for a workweek of 40 hours or more for a limited period of time with a designated ending date. Normally, the limited period of time does not exceed nine (9) months. Exceptions must be approved by the Director of Personnel.
- 6.2. Temporary Part-Time: An employee hired for a workweek of less than 40 hours for a limited period of time with a designated ending date. Normally, the limited period of time does not exceed nine (9) months. Exceptions must be approved by the Director of Personnel.
- 6.3. Occasional: An employee hired periodically, full- time or part-time, for a period not to exceed thirty (30) consecutive calendar days.

7. Extension Time of Temporary Positions

Temporary positions are those created and filled to satisfy a short term, particular need and are of limited duration. It is not the intent that temporary positions be used to fill regular vacancies.

Extension of time for a temporary position must be approved by the Director of Human Resources or designee.

8. Change from Temporary to Regular

When a position is changed from temporary to regular, the position is considered a new position and shall be treated consistently with the policies governing: hiring procedures for staff personnel.

The incumbent of the temporary position must apply in order to be considered, along with other applicants, for the regular position.

Temporary employees who become regular full-time employees will be eligible to receive all benefits following a 30 day waiting period.

Temporary employees may be released from employment at any time without cause or prior notice and do not have recourse to the grievance procedure.

8.1. Limitations Temporary or Occasional Employees

- Do not accrue vacation time.
- Do not accrue medical leave or eligibility for sick bank.
- Do not receive pay for holidays not worked.
- Do not have group insurance privileges.
- Do not have tuition waiver privileges.
- Are not entitled to military leave provided by statutes.
- Are not entitled to receive benefits, i.e. membership/ discounts at the Godfrey Athletic Center or the NMMI Golf Course.

9. Multiple Positions

- 9.1. An employee working two (2) regular part-time positions totaling 30 hours or more per week, will be considered a regular full-time employee. If the total hours normally worked are less than 30, the employee will be considered regular part-time.
- 9.2. An employee working two (2) temporary part-time positions, totaling 30 hours or more per week, will be considered a temporary full-time employee. If the total hours normally worked are less than 30, the employee will be considered temporary part-time

2.02 PROBATIONARY PERIOD FOR NEW EMPLOYEES

*Subject to Change without Notice
Authorized by NMMI Regents' Policy 9
"Responsibility of the President/Superintendent of NMMI"*

All new employees are required to undergo a six- (6) month probationary period from date of hiring. During the probationary period, the employee may be discharged at any time, for any reason. Good and just cause is not required for termination during or at the completion of the probationary period. Such an employee has no proprietary interest in employment and is therefore not entitled to a notice and a hearing prior to or after termination. Probationary periods will not be extended unless circumstances warrant, such as a change in supervisors. All extensions must be approved by the Human Resources Office.

SECTION 3: EMPLOYMENT POLICIES



POLICY	POLICY NUMBER
<u>Discrimination in Employment/Americans with Disabilities Act</u>	3.01
<u>Immigration Law Compliance</u>	3.02
<u>Foreign Nationals Hiring Policy</u>	3.03
<u>Employment of Minors</u>	3.04
<u>NMMI Nepotism Management Policy & Waiver Request Form</u>	3.05

3.01 DISCRIMINATION IN EMPLOYMENT/AMERICANS WITH DISABILITIES ACT

*Subject to Change without Notice
Authorized by NMMI Regents' Policy 9
"Responsibility of the President/Superintendent of NMMI"*

1. **Human Rights**

New Mexico Military Institute is an “employer” within the meaning of the Human Rights Act (Chapter 28, New Mexico Statutes 1978). New Mexico Military Institute is subject to the statute and to the rules and regulations of the New Mexico Human Rights Commission, which were effective as of 18 February 1980.

As an educational institution, NMMI is also subject to Federal Statutes including Title VII of the Civil Rights Act of 1964 (by virtue of the Equal Employment Opportunity Act of 1972). In compliance with federal law, including the provisions of the Title IX of the Education Amendments of 1972, Sections 503 and 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990, NMMI does not discriminate on the basis of race, sex, sexual orientation, gender identity, spousal affiliation, religion, color, national or ethnic origin, age disability, or military service in its administration of education policies, programs, or activities; its admission policies; scholarship and loan programs; athletic or other NMMI administered programs; or employment.

2. **Equal Employment Opportunity**

NMMI policy, state and federal law and regulations forbid unlawful discrimination on the basis of race, color, religion, national origin, physical or mental disability, age, sex, sexual orientation, gender identity, spousal affiliation, ancestry, or medical condition, in recruiting, hiring, training, promoting, and all other terms and conditions of employment. All personnel policies, such as compensation, benefits, transfers, layoffs, terminations, returns from layoff, School-sponsored training, education, tuition assistance, social, and recreation programs will be administered without regard to the characteristics or conditions listed above, except when one of these is a bona fide occupational qualification. The Institute strives to establish procedures that assure equal treatment and access to all programs, facilities and services.

3. **ADA Policy Statement; New Mexico Military Institute Americans With Disabilities Act of 1990 (ADA)**

The ADA prohibits public entities and public accommodations from using eligibility criteria that screen out individuals with disabilities unless they can show that the criteria are necessary to provide the service, program or activity in question, (reference ADA Guidelines section 3.01). The programs and activities at NMMI are essential to provide the type of education found only at a military school.

NMMI is a unique state educational institution providing four years of high school and two years of junior college within a demanding military environment. All students

must be full-time unmarried residents, are members of the Corps of Cadets, must participate in ROTC or JROTC leadership development programs, and must meet the physical requirements necessary to enroll in such programs. Participation in a rigorous physical education program is an essential element of the total education at NMMI.

Every cadet participates in mandatory corps activities including marching, armed drill, physical education and various inspections. All cadets live in the provided barracks and carry a full academic load in a college preparatory or university parallel environment.

NMMI complies with federal law, including the provisions of Title IX of the Education Amendments of 1972, Section 503 and 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990. NMMI does not discriminate on the basis of race, sex, sexual orientation, gender identity and spousal affiliations, religion, color, national or ethnic origin, age, disability, or military service, in its admissions policies, scholarship and loan programs, athletic, other NMMI-administered programs, or employment. Inquires or complaints should be directed to the NMMI's Adjutant/ Legal Advisor.

4. Employee Reasonable Accommodation

A reasonable accommodation is any change in the work environment or in the way a job is normally performed that enables a qualified person with a disability to perform the essential functions of that job. NMMI shall make reasonable accommodation to the known physical or mental limitations of an employee with a disability, unless NMMI can show that providing an accommodation would impose an undue hardship. It is the employee's responsibility to inform his or her supervisor of the need for an accommodation to perform the essential functions of his or her job. Employees are encouraged to submit a written reasonable accommodation request to his or her immediate supervisor. However, verbal notification is sufficient to require the supervisor to take action. If the disability is not obvious, the employee is required to provide documentation from an appropriate source verifying the disability. The employee must assist the supervisor in determining what type of reasonable accommodation the employee should receive, including acceptable alternatives. NMMI must provide an effective accommodation, but not necessarily the accommodation desired by the employee. NMMI reserves the right to request additional medical documentation if necessary to:

- 4.1. determine the existence of a disability,
- 4.2. determine the employee's or applicant's ability to perform the essential functions of the position involved, and
- 4.3. assist in determining reasonable accommodation.
- 4.4. When the supervisor offers an accommodation, the employee must either accept or reject the offer in writing within two (2) weeks of the offer. If the employee rejects the accommodation, he or she must state why the proposed accommodation is not suitable. The supervisor must notify the Chief Financial Officer. Assessing and determining appropriate and effective reasonable accommodations must be done on a case by case basis.

3.02 IMMIGRATION LAW COMPLIANCE

*Subject to Change Without Notice
Authorized by NMMI Regents' Policy 9
"Responsibility of the President/Superintendent of NMMI"*

All offers of employment are contingent on verification of the candidate's right to work in the United States. On the first day of work, every new employee will be asked to provide original documents verifying his or her right to work and, as required by federal law, to sign the Federal Form I-9, Employment Eligibility Verification Form.

3.03 FOREIGN NATIONALS HIRING POLICY

*Subject to Change Without Notice
Authorized by NMMI Regents' Policy 9
"Responsibility of the President/Superintendent of NMMI"*

Purpose

NMMI may sponsor foreign nationals for work visas to be employed on a temporary or permanent basis, as needed. It must be understood, however, that immigration regulations are complex and the process may be time-consuming. Because of the complexity of the federal laws regarding nonimmigrant employment in the United States, all employer-sponsored petitions must be approved in accordance with these procedures and processed through NMMI's Adjutant/Legal Advisor.

Procedure

This procedure serves to clarify institutional and employee responsibilities for the hire of non-resident aliens as well as to ensure consistency of procedures for such hires.

NMMI Responsibilities

The department that proposes a foreign national candidate necessitating a Temporary Visa (H-1B) or Permanent Residency is responsible for the application process, including compiling necessary documents and fees required by law for submission to the appropriate agencies. NMMI will not pay for premium processing fees or associated attorney fees for premium processing. NMMI may, in its sole and absolute discretion, seek repayment for any funds advanced in connection with the immigration services being advanced for any employee provided that the reimbursement of such monies is permitted by law.

By law, any prospective employee who does not have proof of work authorization (pursuant to the I-9 document verification requirements) may not be placed on or remain on NMMI's active payroll and will not be permitted to perform any work until valid work authorization and identity documents can be provided pursuant to the Form I-9 document requirements.

Employee Responsibilities

Because nonimmigrant visa status is temporary in nature, it may be necessary for the employee to renew their nonimmigrant visa, or to attain permanent residency status (green card) to continue employment at NMMI. The employee is responsible for keeping his/her nonimmigrant visa status up to date in order to be authorized to work at NMMI. The employee shall inform the Department Head, Human Resources and the Legal Advisor within 180 days of any potential lapse of their immigrant or nonimmigrant status.

A foreign national employee may obtain permanent resident status depending on the national availability of an immigrant visa and the category for which one is applying. NMMI may seek a permanent labor certification for an employee provided the position for which he/she was hired is re-advertised in the print media of a least 3 newspapers or in a national professional journal and a competitive search is completed to fill the position. The employee shall bear all costs required for the permanent resident application, including any and all associated attorney fees and related costs for the filing and processing the required documents.

NMMI shall not be responsible for assisting any spouse or children of the employee to either obtain or maintain their immigration status in the U.S.

3.04 EMPLOYMENT OF MINORS

*Subject to Change Without Notice
Authorized by NMMI Regents' Policy 9
"Responsibility of the President/Superintendent of NMMI"*

Policy

NMMI abides by legal requirements under federal and state law concerning the employment of individuals under age 18 in New Mexico. As a general policy, NMMI employs only minors who are age 16 and older. Supervisors should be aware that certain employment restrictions apply to minors age 17 and under. Such restrictions include:

- A Work Permit is required of all minors age 17 or under, except high school graduates.
- Minors age 17 and under may work only in jobs defined as "non-hazardous".
- Minors age 17 and under are restricted in the number of hours they may work in a day and week. Restrictions on hours worked vary depending upon the minor's age and whether work is performed on a school day or non-school day.

Contact the Human Resource department for permitted work hours.

Procedures

Minors are subject to the same NMMI requirements and forms completion as any other new hire, such as completion of the I-9, Tax Withholding Form, and application. Pre-employment checks may also be applicable.

Cadets who have been hired through the standard process and are rehired without a break in service of not more than 12 months are only required to complete the W-4. The Student Hire Authorization Form must be approved by the Commandant.

It is the responsibility of the department requesting the employment of a minor to collect required information (such as work permits), to adhere to all posting requirements, and to ensure compliance with applicable child labor laws.

Work Study students are coordinated through the Financial Aid Office.

3.05

NMMI NEPOTISM MANAGEMENT POLICY AND WAIVER REQUEST FORM

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Authorized by NMMI Regents' Policy 9
“Responsibility of the President/Superintendent of NMMI”

NMMI Nepotism Management Policy and Waiver Request Form

Except as prohibited by the laws of the State of New Mexico, relationship by consanguinity (blood) or affinity (marriage) shall not, in itself, be a bar to appointment, employment, or advancement at NMMI (or, in the case of faculty members) to eligibility for tenure. NMMI recognizes, however, that there is an inherent conflict of interest when an employee makes hiring, promotion, or salary decisions about a family member, although there may be extremely rare circumstances when the potential benefit to NMMI in having an employee supervise a family member outweighs the potential harm.

Therefore, no two persons who are related by consanguinity or affinity within the third degree shall be given positions in which either is directly responsible for making recommendations regarding employment, promotion, salary, or tenure for the other; nor shall either of two persons so related who hold positions in the same budgetary unit be appointed to an executive or administrative position in that unit or to a position involving administrative responsibility over it, as long as the other person remains in the unit, without first receiving a waiver that has been recommended by the appropriate Tier 1 executive to and signed by the President/ Superintendent of NMMI. In recommending the waiver, the Tier 1 executive or must make a written statement of the facts that have led him/her to conclude that the benefit to NMMI in granting the waiver outweighs the potential harm. In addition, Tier 1 executive must propose in writing a means by which a qualified, objective person, unrelated to the employee at issue, shall make performance evaluations and recommendations for compensation, promotion, and awards for that employee and state in writing how that means will avoid the conflict of interest. The statement and proposal for supervision shall be made part of the waiver request. Further, a salary increase above the increase granted to all NMMI employees in similar positions will not be granted to an employee who has been granted a waiver under this policy unless it has been approved by the Tier 1 executive, Chief Financial Officer and President/Superintendent of NMMI. In the case where this policy is made applicable by a related party being elected to a Committee of an academic unit, approval by the President / Superintendent is not required; however, all other provisions of this policy will continue to apply.

It is the responsibility of the Tier 1 executive to seek a waiver before offering employment to any person whose employment without a waiver would violate this policy, and the willful failure to follow this policy may result in disciplinary action. Notwithstanding any other provision of this policy, a conditional hire, prior to approval of the President/Superintendent, may be made pursuant to this policy if deemed necessary for legitimate academic or business reasons if justified in writing by the appropriate Tier 1 executive.

This policy also applies to those who might have oversight of an independent contractor or an auxiliary person related to the employee and/or when a supervisory situation is created between a non-NMMI employee who has a role at NMMI and an NMMI employee.

Relatives within the third degree of relationship to an employee by consanguinity or affinity include the following: spouse; parent; parent of spouse; grandparent; grandparent of spouse; great-grandparent; great grandparent of spouse; uncle or aunt; uncle or aunt of spouse; brother or sister; brother or sister of spouse; son or daughter; son-in-law or daughter-in-law; grandson or granddaughter; grandson or granddaughter's spouse; great grandson or great granddaughter and great grandson's or great granddaughter's spouse. For purposes of this policy, step and half relatives are considered to be related by affinity.

The following process must be completed in order to request a waiver:

PROCEDURES:

1. Information about the proposed NMMI Employee who is 1) related by blood or marriage; and 2) proposed to be in a subordinate role to the employee named in #2 below:
 - Name
 - Employee ID
 - Relationship
 - (Proposed) Job title
 - (Proposed) Appointment period if being appointed on soft funds or date of initial appointment
 - Department
 - Tier 1 Executive responsible for Department
2. Information about the NMMI employee who would be in supervisory role relative to the proposed NMMI employee identified in #1 above:
 - Name
 - Employee ID
 - Department
 - Tier 1 Executive
 - Title
 - Supervisory Capacity
3. Written Statement

Tier 1 Executive statement concluding that the benefit to the NMMI in granting the waiver outweighs the potential harm.
4. Management Plan

Tier 1 Executive proposal for the means by which a qualified, objective person unrelated to the proposed employee noted in #1 above shall make performance evaluations and recommendations for compensation, promotion, and awards.
5. Signatures
 - (Proposed) Employee Supervisor President/ Superintendent
 - (Proposed) Employee related to individual in supervisory capacity
 - Tier 1 Executive
 - President/ Superintendent

SECTION 4: EMPLOYMENT PRACTICES



POLICY	POLICY NUMBER
<u>Personnel Records and Administration</u>	4.01
<u>Safety and Responsibility for Reporting of Safety Hazards and Injuries</u>	4.02
<u>Staff Evaluation System</u>	4.03
<u>Performance Management</u>	4.04
<u>Hiring and Termination Procedures</u>	4.05
<u>Intentionally Left Blank</u>	4.06
<u>Separation of Employment</u>	4.07
<u>Employment Contracts</u>	4.08
<u>Background Investigations</u>	4.09
<u>New Employee Orientation</u>	4.10
<u>Appeals/Grievance Procedures (Faculty)</u>	4.11
<u>Appeals/Grievance Procedures (Non-Faculty)</u>	4.12
<u>(Inspection of Public Records) Public Access</u>	4.13
<u>Alternative Dispute Resolution Policy (ADR)</u>	4.14

4.01 PERSONNEL RECORDS AND ADMINISTRATION

*Subject to Change Without Notice
Authorized by NMMI Regents' Policy 9
"Responsibility of the President/Superintendent of NMMI"*

General

NMMI recognizes the expectations of employees that information about them stored in NMMI personnel files is accurate, relevant, and safe from improper disclosure. Federal and state laws require that certain information be gathered and maintained. NMMI keeps such information in employee personnel files. Additionally sound personnel decisions require that NMMI collect and retain information concerning employment history and performance.

Personnel File Maintenance and Contents

The task of handling personnel records and related administration functions at NMMI has been assigned to the Human Resources Office. Personnel files will be kept confidential at all times and include some or all of the following documents:

- Application for Employment
- Resumes or Curriculum Vitae
- Performance Evaluations
- Disciplinary action and related materials
- Letters of resignation and documentation of termination
- Appropriate insurance, retirement and other benefits information
- Additional information concerning the employee that is pertinent to his or her tenure of employment.
- All medical records, if any, will be kept in a separate confidential file.
- A separate folder will be maintained for the pay record.

Information of a highly personal or confidential matter will be kept in a separate classified folder available only to those persons who have a need to know.

Related Policies

See [5.16 Personnel Information Disclosure Policy](#)

4.02 SAFETY AND RESPONSIBILITY FOR REPORTING OF SAFETY HAZARDS AND INJURIES

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General

NMMI holds in high regard the health and safety of faculty, staff, cadets, and visitors. It is the policy of NMMI to provide a loss-control program that protects employees from occupational injuries and illnesses, protects NMMI property from loss and damage, and protects the environment.

Responsibilities

Employment at New Mexico Military Institute is not classified as hazardous but accidents can and do happen anywhere. Every employee must be safety conscious while working and constantly on the lookout for hazardous conditions. Anything considered to be a safety hazard, to include fire, will be reported to the Facilities Office or designee. Employees, to include faculty, will report any injury, however slight, to their immediate supervisor immediately. A report of the accident answering the; who, when, where, what, and why; will be forwarded to the Human Resource Director or designee as soon as possible or within two (2) days of the accident. A copy of the report will be filed in the workman's compensation files.

The safety and health of employees is a priority. NMMI makes every effort to comply with all federal and state workplace safety requirements. NMMI's workplace safety rules and policies are the following:

- No Smoking or Other Tobacco Use
- No Alcohol or Illegal Drugs
- NMMI Code of Safe Practices
- Fire Regulations
- Firearms
- Safety Office

Each employee is expected to obey safety rules and exercise caution and common sense in all work activities.

4.03 STAFF EVALUATION SYSTEM

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Performance Evaluation

A performance evaluation of all non-teaching staff personnel will be conducted in accordance with the following schedule:

- All staff employees will be evaluated annually by their respective supervisors.
- All supervisors will be evaluated by the appropriate coordinating staff member every second year.
- All Vice Presidents and Directors will be evaluated by the President/Superintendent every third year.
- Performance Evaluation forms located on Personnel web site.

Evaluation Period

The evaluation period will extend from 1 July to 30 June and the process will be completed by 15 September of the following year. Employees whose contract is not being renewed must be notified by 1 April.

Substandard Evaluation

Any substandard evaluation will automatically set in motion counseling procedures designed to help that person improve his or her performance to an acceptable standard. Any substandard evaluation will also require that an additional evaluation be conducted the subsequent year.

Notification of Non-Renewal of Contract for Employment

An employee whose contract is not being renewed must be notified by 1 April. However, this option may only be chosen after presenting the Human Resources Director with documented events leading to the non-renewal status prior to notification of the recipient. Non-renewal notification correspondence will be prepared by the Chief Financial Officer (Human Resources Director) in conjunction with the Legal Advisor.

4.04 PERFORMANCE MANAGEMENT

*Subject to Change Without Notice
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"Responsibility of the President/Superintendent of NMMI"*

1. General

NMMI policy on performance management is designed to maximize the contribution of every employee. Employees play a valuable and critical role in helping NMMI fulfill its mission. Supervisors have a responsibility to train and support each employee in understanding job requirements and to assist employees in improving performance. Employees should be treated with dignity and respect. In turn, providing quality programs and services requires cooperation by employees and adherence to established policies, procedures, regulations, practices, and high standards of job performance. In an effort to maximize the contribution of every employee, NMMI has adopted the following procedure for performance management.

NMMI encourages a supportive problem-solving approach to performance problems, but NMMI recognizes that misconduct and continued substandard performance problems may require disciplinary action. NMMI normally uses the progressive discipline process described in [Section 4](#) herein to address misconduct and continued substandard performance problems. Progressive discipline is intended to be corrective, not punitive in nature. It is designed to provide employees with notice of deficiencies and an opportunity to correct them. However, some violations of policies and procedures, or continued negative behavior or performance may be of such serious nature that immediate suspension or discharge may be appropriate. NMMI retains the right in accordance with applicable federal and state laws and Regents' policies to determine the methods, means, and personnel required to maintain efficient operations. This includes the right to hire, promote, transfer, assign, and retain staff employees in positions within NMMI.

For purposes of this policy, "employees" includes regular staff and contract employees. Individuals specifically appointed as faculty, cadet employees, and independent contractors are not subject to this policy.

2. Employee Responsibilities and Rights

Employees are responsible for following established NMMI policies, procedures, regulations, and practices. They shall work in an efficient, competent, and cooperative manner and fulfill their job requirements. An employee's right with respect to disciplinary actions and discharge differ for the various classifications as described below. Employees who disagree with any disciplinary action taken may seek resolution.

2.1. Temporary Employees

Temporary employees may be released from employment with or without cause or notice.

2.2. Probationary Employees

Probationary employees are those employees who have not completed the six-month probationary period. Probationary periods will not be extended unless circumstances warrant, such as a change in supervisors. All extensions must be approved by the Chief Financial Officer.

Probationary employees may be suspended or released from employment with or without cause or notice. However, supervisors should make reasonable efforts to train and work with probationary employees to achieve satisfactory performance. See [Section 2.02](#) for detailed policies and procedures on probationary period.

2.3. Post-Probationary Employees

Post-probationary employees are those employees who have completed the probationary period. Post-probationary employees may be suspended or discharged only for proper cause as discussed in [Section 8](#) herein. Supervisors should normally use progressive discipline when resolving disciplinary problems involving post-probationary employees. Progressive discipline is discussed in [Section 4](#) herein.

2.4. Employees Hired on a Contract Appointment

Certain employees may be employed at NMMI under a contract appointment agreement. However, the individual’s employment will end as of the specified date unless the Human Resources Office provides a new contract.

3. Supervisor Responsibilities

Supervisors should seek to achieve a productive, effective work environment by ensuring that each employee’s job performance meets expectations. Supervisors should make appropriate efforts to ensure that employees understand job requirements and expectations. Supervisors should address problems that may impact on performance in a timely, constructive, and corrective manner. NMMI does not condone poor performance; however, it recognizes that good “coaching” can correct many performance deficiencies. Good performance management requires continuous improvement feedback to employees. Supervisors should evaluate performance, identify shortcomings, and plan training needed to correct any weaknesses.

Supervisors should use a problem-solving approach to resolving performance deficiencies. In dealing with such, supervisors are encouraged to seek assistance, as appropriate, from the following resources:

- 3.1. their superiors
- 3.2. the Chief Financial Officer
- 3.3. the Legal Advisor
- 3.4. other NMMI resources

When performance problems continue or employee misconduct is of a serious nature requiring discipline, the actions described in Section 4 herein may be appropriate. The

objective of the following corrective actions is to seek to return the employee to positive productive performance.

4. **Progressive Discipline**

NMMI uses progressive discipline for post-probationary employees. Progressive discipline is designed to allow an employee a reasonable opportunity to meet the requirements of the job, comply with NMMI policies, procedures, practices, and regulations, and allow the employee an opportunity to improve performance.

Progressive discipline may not be appropriate in all instances; such as when health or safety is at risk, a crime has been committed, or, when stronger discipline is required. Depending on the individual circumstances, some violations (listed in [Section 8](#)) could be of such a serious nature that disciplinary action could lead directly to suspension or discharge with the approval of the Chief Financial Officer.

Progressive discipline actions include the use of oral warnings, written warnings, suspensions, and/or discharge. Discipline should be administered equitably, consistently, and progressively. Depending on the nature of the performance problem or misconduct, a supervisor may start progressive discipline at any appropriate point in the process.

The following sections describe in detail the actions used in progressive discipline.

4.1. Initial Discussion/Informal Counseling

Normally, initial disciplinary action should be in the form of an oral discussion, especially for minor rule violations. If it appears that an employee has failed to perform his/her work or conduct him/herself according to requirements, the supervisor should first talk to the employee about the matter and informally inquire further into the situation. If facts indicate that the employee may have been at fault, the supervisor should discuss the matter with him/her and the expectations of the supervisor or steps needed for improvement. The supervisor should always seek to ascertain the employee's comments regarding the incident, behavior or poor performance. An Informal Counseling is not documented in the employee's official personnel file, maintained by the Human Resources. However, the supervisor shall maintain a record of the Counseling session given which should be referred to in any further disciplinary action taken.

4.2. Oral Warning

If the initial discussion fails to produce the desired results, an oral warning is normally the next step. The primary objective of an oral warning is to advise the employee of his/her performance problems and to advise the employee what she/he can do to restore satisfactory performance. It is expected that most such discussions will result in improved performance. The supervisor should advise the employee:

- 4.2.1. Of the nature of the problem and allow the employee to explain the problem and to suggest ways to correct the situation
- 4.2.2. Of the policies or rules violated
- 4.2.3. Of the specific actions to be taken by the employee and/or supervisor to correct the problem, including specific time frames, if appropriate
- 4.2.4. Of any further disciplinary action that will occur should the problem persist
- 4.2.5. Of the employee's right to dispute any disciplinary action.

The supervisor must make it clear to the employee that this is an "oral warning." An oral warning is documented in the employee's official personnel file, maintained by the Human Resources.

4.3. Written Warning

A written warning provides the employee with a written explanation of the events leading to the warning, an explanation of any applicable rules, and any subsequent information that can help the employee improve the identified performance problem. The supervisor must make it clear to the employee that this is a "written warning" and that if the employee does not improve performance to a satisfactory level within the time frame(s) listed; more serious disciplinary action will take place. A written warning is documented in the employee's official personnel file maintained by the Human Resources. The written warning should include:

- 4.3.1. the nature of the problem, including reference to any earlier oral warning(s) and informal counseling
- 4.3.2. the policies or rules violated (if any)
- 4.3.3. the specific action to be taken by the employee and/or supervisor to correct the problem, including specific time frames, if appropriate
- 4.3.4. a statement that further disciplinary action, up to and including discharge, could occur should the problem persist
- 4.3.5. a statement that disciplinary action may be disputed

5. Written Warning Removal

Since the purpose of discipline is to help employees' correct problems, when an employee has corrected a problem subsequent performance evaluations should reflect the improved performance. After an employee has received at least three (3) positive evaluations, an employee may petition his or her supervisor to have the written warning removed from the employee's official personnel file.

6. Suspension

A suspension is a temporary involuntary separation of employment, without pay, for performance problems that have not been satisfactorily corrected through the use of oral and written warnings or for misconduct or serious violation of policy. Suspensions range from one (1) workday up to thirty (30) workdays, depending on the seriousness of the problem. The supervisor must comply with the notice requirements listed in [Section 9](#) herein, should inform the employee in writing that the suspension is a disciplinary action, and that discharge could occur should the problem persist. A suspension requires approval in advance of the Chief Financial Officer.

7. Discharge

A discharge is a permanent involuntary separation of employment from NMMI for disciplinary reasons. Discharges must be approved in advance by the Chief Financial Officer. The supervisor must comply with the notice requirements listed in Notice Requirements herein.

8. Proper Cause

Proper cause for the immediate discharge of an employee can be precipitated by behavior significant or substantial in nature relating to the employee’s work that is anathema to the employee’s obligation to NMMI. The following is a list of examples of behavior that can precipitate proper cause but that should not be considered as an all- inclusive list.

- 8.1. Assault or battery or unwelcomed contact with another person
- 8.2. Conviction of a felony or misdemeanor where the provisions of the Criminal Offender Employment Act apply, depending on the nature of the offense and the type of position
- 8.3. Creation of a hostile working environment
- 8.4. Falsification (deliberate) or omission of information on employment applications or resumes, time cards/records, or other NMMI records
- 8.5. Violation of NMMI’s “Policy on Illegal Drugs and Alcohol”
- 8.6. Incompetence
- 8.7. Inefficiency
- 8.8. Insubordination
- 8.9. Intoxication on the job or being under the influence of illegal or controlled substances
- 8.10. Misappropriation or personal use of NMMI funds, property, possessions, or resources
- 8.11. Misconduct
- 8.12. Negligence
- 8.13. Performance which continues to be inadequate after reasonable time has been allowed to correct it
- 8.14. Sexual or other forms of harassment
- 8.15. Theft or fraud
- 8.16. Uncooperative behavior
- 8.17. Violation of confidentiality or the release of confidential information

9. Violation of NMMI policies Notice Requirements

9.1. Notice of Contemplated Action

To initiate a suspension or discharge of a post-probationary regular, term, or contract employee, the supervisor must serve the employee with a Notice of Contemplated Action. Suspensions and discharges require approval of the Chief Financial Officer prior to issuing a Notice of Contemplated Action. This notice must include all the following points:

- 9.1.1. Cite the acts, which the supervisor believes, may constitute proper cause. These may be any one (1) or more of the acts listed in [Section 8](#) herein.
- 9.1.2. Give a summary of the evidence against the employee.
- 9.1.3. Specify the contemplated action.
- 9.1.4. State that the employee has ten (10) calendar days from receipt of the notice to respond in writing to the contemplated action.

A copy of the notice and the employee's written response will be sent to the Human Resources for placement in the employee's official personnel file.

9.2. Notices

Notices will be in writing and will be served in person, if possible. At the time of service, the employee will be asked to sign an acknowledgment of receipt. If the employee declines, the supervisor will so note for the record. If the notice cannot be served in person, the notice will be sent by certified mail with a return receipt requested or by email with a request for acknowledging receipt. The notice must be properly stamped and addressed to the last address provided by the employee. Service of the notice is complete when the notice is hand delivered, emailed, or deposited with the United States Postal Service by certified mail with a return receipt requested.

9.3. Computation of Time

Any time period required or allowed by this policy does not include the day of the action from which this time period begins. If the last day of the time period falls on a Saturday, Sunday or holiday, the last day of the time period will be the next working day.

9.4. Response to Notice of Contemplated Action

The employee or a representative of the employee's choosing may respond in writing to the Notice of Contemplated Action. The response is served to the supervisor who signed the notice. If the employee wishes to meet with the supervisor to respond to the notice of contemplated action, she/he must submit a written request for the meeting within five (5) workdays from receipt of the notice. As stated in Section 9.1 herein, the employee must respond in writing within ten (10) calendar days from receipt of the notice. Any extension of time must be in writing and agreed upon by both the employee and the supervisor.

9.5. Notice of Final Action

After considering the employee's written response, the supervisor will decide on the final action and serve the employee with a written notice of final action. The notice of final action will be within thirty (30) calendar days after receipt of the employee's response and include all the following points:

- 9.5.1. The final action(s) to be taken
- 9.5.2. The acts constituting proper cause, which shall only include allegations specified in the Notice of Contemplated Action
- 9.5.3. A summary of the evidence
- 9.5.4. A reply to the employee's response, if any
- 9.5.5. The effective date of any disciplinary action.

A copy of the notice will be sent to the Human Resources for placement in the employee's official personnel file.

9.6. Pay Status

An employee may be placed on administrative leave with pay pending completion of the investigative or disciplinary process. However, with the exception of an employee whose suspension has been approved by the Chief Financial Officer, post-probationary and contract employees will remain on paid status at all times pending completion of the disciplinary action.

Required Approval by the Human Resources Director

Supervisors contemplating the suspension, demotion, or discharge of any employee, including probationary and temporary employees, must consult with the Chief Financial Officer before taking such action. Whenever prior consultation is not practical because of reasons perceived to be of such an urgent or serious nature, the employee must be placed on administrative leave with pay until the case can be discussed with the Chief Financial Officer.

10. Attachments

[Counseling Guidelines \(Word\)](#)

4.05 HIRING AND TERMINATION PROCEDURES

*Subject to Change Without Notice
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1. General

All supervisors must follow the NMMI Human Resources Policies and Procedures manual in all hiring and personnel practices. NMMI, not individual supervisors, hires and terminates employees. All Supervisors must adhere to the following guidelines when dealing with personnel issues:

- 1.1. NMMI is an Equal Opportunity Employer.
- 1.2. A complete job description must be provided to the NMMI Human Resources Office prior to any position being advertised. This will apply whether the position is new or a replacement position. The job description must meet current ADA qualification standards and describe the essential functions without language that is discriminatory.
- 1.3. All job openings must be advertised. Prior to publication, the Chief Financial Officer will review ads for compliance with NMMI policies and employment law.
- 1.4. Supervisors advertising new or replacement positions should contact the Human Resources Office for an explanation of benefits for those positions.

2. Availability of Salary

No position will be offered to a candidate until the supervisor has submitted a hiring report and received approval from the Chief Financial Officer.

3. Preparation of Hiring Report Prior to Contract Offering

No new contract will be offered until the supervisor has submitted a hiring report, as outlined in the NMMI hiring practice guideline, to the Chief Financial Officer.

4. Personnel Actions

All personnel actions must be reported to and appropriate documentation filed with the Human Resources Office. This includes all terminations and hiring, even part-time or temporary positions. The NMMI Operations and Procedures must be followed in disputes. Due to the possibility of serious legal implications, supervisors will consult with the Chief Financial Officer and/or Legal Advisor prior to taking any action dealing with termination, probation, or demotion. All employees must be advised of the grievance procedures in Sections [4.11](#) and [4.12](#).

5. Attachments:

<https://www.nmmi.edu/intranet/humanresources/forms.htm>

Please click on Hiring Practice Guidelines.

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4.07 SEPARATION OF EMPLOYMENT

*Subject to Change Without Notice
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1. General

There are four (4) categories of separation of employment from NMMI: Voluntary, death, involuntary for proper cause, and layoff. Outlined herein are the policies and procedures for recognizing and processing each type of separation of employment. This policy also describes the re-employment and benefit rights of employees being laid off.

2. Voluntary Separation

Voluntary separations include resignation initiated by the employee or by mutual agreement between the employee and NMMI, retirement of the employee, or employee's completion of the period of his/her contract.

2.1. Resignation

An employee may elect to resign voluntarily or leave NMMI through mutual agreement with NMMI. The employee should submit a written resignation giving a minimum of two (2) weeks' notice to his or her supervisor. For resignations by mutual agreement, the supervisor should obtain appropriate releases of any further obligation of NMMI as part of the written resignation. Resignations also occur when:

2.1.1 An employee walks off the job.

2.1.2 An employee is absent for three (3) consecutive workdays without the supervisor's permission, except when an official emergency precludes giving notice. Workdays are considered consecutive even when broken by normal non-working days, such as holidays or weekends.

2.1.3 An employee fails to return to work within the prescribed time limits following an authorized leave of absence.

2.2 Retirement

Employees may elect to retire after meeting the ERB eligibility requirements. Employees are encouraged to begin the retirement process at least 30 days in advance. The Human Resources will notify retiring employees of their options with respect to health insurance and other benefits.

2.3 Expiration of Contract

Upon appropriate notification by the supervisor that a contract will not be extended, employees hired under contract will be separated from NMMI at the end of the contract period. Terms, conditions, and notification requirements for employees hired under contract are described in the Contracts Section.

A non-tenured contract employee has no right to re-employment at the end of the contract term. A decision not to re-employ may be made by NMMI for any reason NMMI deems sufficient. Because the employee has no proprietary interest in his/her re-employment the employee is therefore not entitled to notice and a hearing prior to or after the decision not to re-employ at the end of the contract term. Employees other than faculty members whose contracts are not being renewed must be notified by 1 April.

The Chief Financial Officer may recommend to the President/Superintendent the termination of a non-tenured contract employee during the term of his/her contract, if the Chief Financial Officer, in his/her discretion, has good and just cause. Such an employee is entitled to the Hearing Procedure, if she/he so chooses.

2.4 Hearing Procedure

Should an employee who is entitled to the Hearing Procedure wish to appeal the recommended termination, the following shall be the procedure:

- 2.4.1 Within five (5) days of receiving the Chief Financial Officer's Notice of Recommendation of Termination, with the good and just cause reasons set forth, the employee shall submit a written notice to the President/ Superintendent that the employee desires a hearing. The President/Superintendent shall then notify the employee and the Chief Financial Officer in writing of a time, date, and place for President /Superintendent's review hearing. At such review hearing, the Chief Financial Officer or the Chief Financial Officer's designee shall present all such information upon which his/her decision to recommend termination was made. Also at such hearing, the employee may present any relevant evidence on his/her behalf, whether written or oral, and present any and all witnesses as he/she may desire. If either the employee or the Chief Financial Officer or both so desire, legal counsel may represent them. This hearing shall be conducted not less than neither five (5) nor more than ten (10) days after the receipt by the President/Superintendent of the employee's written notice requesting a hearing. The President/Superintendent shall have the authority to approve, disapprove or modify in any manners he sees fit the recommendation of the Chief Financial Officer. The President/Superintendent shall notify the Chief Financial Officer and the terminated employee in writing of his/her decision not later than five (5) days from the date of the hearing. The employee shall be considered to have received notice when a written notice is mailed to his/her address of record by first class mail, certified or registered mail. The decision of the President/Superintendent is final.

2.4.2 The technical rules of evidence and procedure as recognized by the District Courts of the State of New Mexico shall not apply to the termination process and Hearing Procedure.

2.5 Non-renewal of Contract

When an employee under contract is not to be renewed, the supervisor shall notify said employee in writing by hand delivery, email or by first class, registered or certified mail no later than 1 April. Official notice of nonrenewal correspondence will be prepared by the Human Resources Office. Notices shall be considered received upon delivery or mailing.

2.6 Death

Upon the death of any employee, the supervisor shall immediately notify the Human Resources. The Human Resources will assist the next of kin in completing separation forms, filing insurance claims, completing ERB forms as required.

3. Involuntary Separation

3.1. Separation During Probation

A “regular” full-time or part-time employee is relieved if the employee is separated during the six (6) month probationary period. A non-contract employee can be terminated by the Chief Financial Officer at any time for any reason the Chief Financial Officer deems sufficient. Such employee has no proprietary interest in his/her employment and is therefore not entitled to notice and a hearing prior to or after termination.

3.2. Discharge For Proper Cause

An employee can be discharged for unsatisfactory performance, misconduct, or for other reasons deemed to constitute proper cause by NMMI. An employee must be given notice of the grounds constituting proper cause and an opportunity to respond verbally and in writing before an employee is separated for cause. Refer to Performance Management Policy 4.04.

3.3. Consultation with Human Resources

A supervisor must consult with the Human Resources before an employee is involuntarily separated from NMMI.

3.4. Notice of Separation

Supervisors must give employees two (2) weeks’ notice of the separation, except in exceptional cases where immediate separation is required for reasons of health and safety or the overriding interest of NMMI. Pay in lieu of notice may be given at the employee’s straight-time pay rate when giving notice is not practical. Pay in lieu of notice is not appropriate in cases of discharge for serious infractions or discharge following suspension for serious infractions.

4. **Layoff and Reduction-in-Force**

From time to time it may be necessary for NMMI, or any unit within NMMI, to restructure its programs and services in response to changing demands, or loss of funding for said programs or services. When there is a loss of funding or a unit is restructured, it may be necessary to eliminate one (1) or more staff positions. This section describes the process for eliminating staff positions and the re-employment rights of individuals placed on layoff status as a result of such decisions. Employees who are laid off from their jobs may qualify for unemployment insurance.

When an employee's position is to be terminated through no fault of his/her own, the supervisor must give a minimum of two weeks' notice to the Chief Financial Officer. A reduction in force for personnel will be accomplished by two (2) weeks' pay.

5. **Elimination of Staff Positions**

The President/Superintendent must approve any restructuring resulting in the elimination of staff positions. An administrator proposing to modify a program or service that includes the permanent elimination of staff positions must perform the following steps:

- 5.1. The administrator must submit an explanation of the reasons for the restructuring to the President/ Superintendent.
- 5.2. The administrator must identify the specific positions that are to be eliminated and the rationale behind each selection. When an organization has more than one (1) individual employed under the position title being eliminated, selection of employees to be laid off generally will be based on seniority. Temporary and on-call employees in similar positions will be released from employment first. If further reduction is necessary, employees on probation in similar positions shall be laid off before employees who have completed their probation. If seniority within a job classification is exactly equal, then selection of employees for layoff may be based on qualifications and performance as determined by NMMI. Performance of individuals within similar positions shall not be a criterion for selection of positions to be eliminated or employees to be laid off unless seniority is exactly equal.
- 5.3. The administrator must make a good faith effort to transfer employees in positions that are being eliminated to other similar positions.
- 5.4. The administrator must agree that the eliminated position will not be reinstated for at least one (1) year from the date of elimination. During this time period a position may not be reclassified to take the place of the position eliminated. The President/ Superintendent must approve reinstatement of the position.

If the position was eliminated due to a loss of funding and additional funding is received resulting in reinstatement of the position, the Chief Financial Officer must first offer the position to the individual laid off due to the funding loss.

- 5.5. The administrator must give the employee being laid off as much notice in writing as practicable, but no less than 30 calendar days. The notice shall include the effective date of the layoff, the reasons for the layoff, and information regarding the employee's re-employment rights.

- 5.6. The administrator must notify the Chief Financial Officer of the approved layoff at the earliest possible time. This will allow time for the employee to be transferred into another position.

6. Re-employment Rights

Employees who have been laid off because of loss of funding, restructuring, or elimination of programs or services shall be placed on a “layoff roster” for six (6) months. The “layoff roster” will be maintained by the Chief Financial Officer.

6.1. Benefits

During the time an individual is on the layoff roster:

- 6.1.1. The individual may retain health insurance coverage through the Consolidated Omnibus Budget Reconciliation Act (COBRA) by paying the full insurance premium for up to 18 months if insurance coverage is lost due to the layoff at NMMI.
- 6.1.2. NMMI shall stop making retirement contributions as of the date of the layoff. Upon re-employment, retirement contributions by the employee and NMMI will begin as of the date of the re-employment.
- 6.1.3. The individual may complete other employer-supported benefits, such as educational benefits, in which they participated before being laid off. However, individuals who are laid off may not initiate any employer-supported benefits while on the layoff roster.

6.2. Priority Hiring

Individuals who will be laid off, or who are on the layoff roster, will be given first priority in filling any vacant position at NMMI of similar or lower classification. The Human Resources will refer individuals on, or to be placed on, the layoff roster to the first department seeking to fill a vacant position of similar or lower classification. Only if the individual on the layoff roster rejects an offer of re-employment into the position may NMMI consider another employee of NMMI or an external applicant for the position. An individual is given priority reassignment or re-employment status under this policy for six (6) months from the date of the layoff and will retain accumulated seniority to the date of lay-off, but does not accrue additional seniority during the lay-off period.

6.2.1. Position of Similar Classification

Supervisors must give individuals on the layoff roster first priority in filling any NMMI position substantially comparable in duties, responsibilities, salary, and minimum qualifications. Individuals on the layoff roster who are re-employed into such a position shall be paid at least at the salary level of their previous employment. The hiring officer may consider another employee of NMMI or an external applicant for the position if the individual on the layoff roster rejects an offer of re-employment into the position. If an individual refuses to accept re-employment into a substantially comparable position, he or she will automatically be removed from layoff status and lose any re-employment or benefit rights under this policy.

The Chief Financial Officer will determine which positions are substantially comparable in nature to the position previously held by the employee. The individual will be deemed to have met the minimum qualifications of substantially comparable positions since he or she met the qualifications for the position previously held.

6.2.2 Position of Lower Classification

Hiring officers must also give individuals on the layoff roster, who are qualified for a position of lower classification and who voluntarily choose to be considered for the position, first priority when filling the position. Only if the individual on the layoff roster rejects an offer of re-employment into the position may NMMI consider another employee of NMMI or an external applicant for the position. An individual who rejects re-employment into a position of lower classification is not removed from the layoff roster and does not lose re-employment or benefit rights under this policy.

6.2.3. Other Openings

During the time the individual is on layoff status, she/he may apply for any other vacant position at NMMI and compete as a new applicant. The individual will be given priority only for positions described in Sections 6.2.1. and 6.2.2. herein.

6.3. Re-employment

The individual's re-employment shall be considered a six- (6) month probationary appointment subject to the acceptable performance requirements of any new employment. The re-employed employee and the employee's supervisor shall make good faith efforts to establish a satisfactory employee-employer relationship.

Sick and Annual Leave

An employee who is laid off will not accrue annual and sick leave hours while on layoff. However, a laid-off employee who is re-employed into a position that is eligible to accrue leave, will accrue sick and annual leave at the same rate the employee accrued at the time of the layoff if the re-employment occurs within six (6) month of the date of the layoff. Unused sick leave hours as of the date of the layoff will be reinstated for those employees who are re-employed from layoff within six (6) months. Employees re-hired or reinstated after expiration of layoff status as specified above will be considered as new hires for annual and sick leave purposes.

Laid off employees are paid for the allowable unused annual leave hours at time of separation.

7. Separation Procedure and Supervisor's Responsibilities

To protect both the employee and NMMI and to maintain official records to determine if an employee is eligible for unemployment compensation, the following procedure is to be used for all voluntary and involuntary separations.

- 7.1. The supervisor shall immediately notify the Human Resources of any separation of employment. The effective date of separation is the last day when the employee will be in paid status.
- 7.2. The supervisor shall ensure that the employee completes an "NMMI Employment Out-Processing Checklist for Permanent full-time Personnel". This process requires that the employee be cleared by selected departments on the list.

The Human Resources will notify employees who separate from NMMI of their rights for health insurance coverage under the federal COBRA program if they were enrolled in NMMI's Health Insurance Program.

8. NMMI Employment Out-Processing Checklist for Permanent full-time Personnel.

This form is available from the Human Resources Office.

4.08

EMPLOYMENT CONTRACTS

*Subject to Change Without Notice
Authorized by NMMI Regents' Policy 9
"Responsibility of the President/Superintendent of NMMI"*

1. General

Employment contracts will normally be issued by May 1 for those employees that have completed their required six-month probationary period. Employment contracts for each school year will reflect not only salary but also additional money and special benefits that will be paid for services to be performed over and above that so stated in the basic contract. Contracts must be amended for extra services agreed to during the academic year. The amendment or additional employment contract must be made prior to the services being performed.

2. Provisions

When issued, each contract will indicate:

- 2.1. The base salary
- 2.2. The time period
- 2.3. Additional salary increments for specified additional work, if any
- 2.4. Type of employment

3. Contract Review and Signature

Prospective employees will be expected to review and return their signed contract within ten (10) calendar days of receipt if they intend to accept the employment for the coming year. If, after ten days, the signed contract is not received, a reminder will be sent to the employee. Failure of the employee to return the contract, after the reminder, will be considered his/her intention not to accept employment.

4. Employer Provided Housing

Housing is provided to certain NMMI employees. Details are included in their employment contracts. See [Section 6.08](#) for detailed policies and procedures.

5. **Renewal/Non-Renewal**

NMMI must reserve the right to renew or not renew the contracts of incumbents when such contracts expire. As used in this policy, “non-renewal” means discretionary non-renewal of an employee’s contract, as opposed to termination or dismissal for proper cause. The President/Superintendent must approve all non-renewal of employee contracts.

5.1. Contract Terms and Conditions

Contracts for employees subject to this policy are normally written for a one (1) year period. Except for NMMI’s right either to renew or not renew employees’ contracts, and except for matters specifically set forth in such contracts (including duties and salary), the benefits, terms, and conditions of employment of employees on contract shall be governed by NMMI’s personnel policies.

5.2. Notices

Employees must be notified by April 1 of the current contract year if a decision is made not to renew their contract.

6. **Faculty Status**

Some employees’ subject to this policy may have appointments as members of the faculty and retain faculty rank and tenure status. Termination of these individuals’ administrative contracts does not affect their rights and privileges as faculty members, although salary and other benefits will usually be affected. The terms and conditions of employment of these individuals as faculty members are subject to NMMI’s [Faculty Handbook](#).

4.09 BACKGROUND INVESTIGATIONS

*Subject to Change Without Notice
Authorized by NMMI Regents' Policy 9
"Responsibility of the President/Superintendent of NMMI"*

General

NMMI may conduct work history, education history and/or reference investigations on each candidate recommended for hire, including but not limited to, substitutes and temporaries. Volunteers and contractors who have been identified as performing functions similar to that of safety or security sensitive positions or working in a location identified as safety and security are subject to all provisions of this policy. Each candidate may be subject to a criminal background investigation, including mandatory fingerprinting, as a condition of further consideration for employment. Each employee, upon hire, must be fingerprinted and a complete background investigation completed. Any offer of employment is contingent upon the satisfactory completion of all background investigations.

Criminal convictions shall not automatically bar an applicant from obtaining employment with NMMI but pursuant to the Criminal Offender Act, NMSA 1978, 28-2-4 and 28-2-5, may be the basis for refusing employment. Human Resources Office will notify the supervisor of a "failed" background check, but the supervisor must maintain the confidentiality of the details. If, after the supervisor reviews the finding and discusses it with HR, the supervisor wishes to retain the employee, this decision must be approved by the Chief Financial Officer. A decision to disqualify an existing employee on the basis of a background check will take into consideration the seriousness, extensiveness, and relevance of the information to the responsibilities of the position.

Confidentiality, Maintenance and Security of Records

HR will maintain records of background checks. All records are confidential, protected by law, and not subject to public disclosure, except as provided herein. Records obtained shall not be used for any purpose other than determining whether an applicant or employee has a record that would constitute disqualification. Except on receipt of legal process, or with the written consent of the individual, records obtained and the information contained therein shall not be disclosed to any other person or agency, unless otherwise required by law. These records may be subject to inspection by governmental or other agencies with regulatory jurisdiction over NMMI.

4.10 NEW EMPLOYEE ORIENTATION

*Subject to Change Without Notice
Authorized by NMMI Regents' Policy 9
"Responsibility of the President/Superintendent of NMMI"*

1. General

The New Employee Orientation gives new employees information they need to quickly become productive members of the campus community. An employee's first impressions of NMMI and its operations can have a lasting effect on the employee's attitude and loyalty. An effective orientation is the first step in improving employee performance and retention. The NMMI New Employee Orientation is designed to:

- 1.1. Make a new employee feel welcome and part of the department and NMMI.
- 1.2. Provide specific information about the employee's position.
- 1.3. Inform the employee about NMMI policies and benefits.
- 1.4. Provide an overall view of NMMI operations, mission and goals.
- 1.5. Instill an interest in NMMI's future.
- 1.6. Encourage a new employee to ask questions about NMMI, his/her department, and his/her position.

The NMMI Human Resources and the respective department are responsible for the proper NMMI Employee Orientation.

2. New Employee Orientation

2.1. Human Resources Orientation Responsibilities

All regular full-time and part-time staff new to NMMI must attend a New Employee Orientation session offered by the Human Resources. Employees are on paid time while attending the orientation, which lasts approximately four (4) hours and includes:

- 2.1.1. An overview of NMMI's mission, purpose, vision and organizational structure
- 2.1.2. A short presentation on NMMI history, accomplishments, and future plans
- 2.1.3. An overview of Cadet Life to included physical fitness, Corps life, Academics
- 2.1.4. A discussion of selected NMMI policies (to include the Harassment Policy at [Section 5.01](#))
- 2.1.5. Information on employment related service
- 2.1.6. Payroll information
- 2.1.7. Information on employee benefits, including retirement, health insurance, annual leave and sick leave, and etc.

3. Departmental Orientation Responsibilities

Supervisors are responsible for introducing all new employees, including those who are not new to NMMI, to their jobs, departments and coworkers. Departmental new employee orientations are important, and must be done in a conscientious and consistent manner with all new employees. Departmental orientations should also address any additional issues that are specific to the department, such as training, safety, and security. Orientations provide an important first opportunity for supervisors to help new employees feel comfortable with established employees and to understand the functions of the department. However, supervisors should avoid overwhelming new employees with too much information in a short period of time. Supervisors are responsible for ensuring that a “NMMI Employment In-Processing Checklist for Permanent Full-Time Personnel” form is completed by new employees. This form is available from the Human Resources Office.

4.11 APPEALS/GRIEVANCE PROCEDURES (FACULTY)

*Subject to Change Without Notice
Authorized by NMMI Regents' Policy 9
"Responsibility of the President/Superintendent of NMMI"*

General

In general, grievance actions are initiated because of the failure to rectify an alleged grievance at the lowest supervisory/ administrative level. Grievances do not include complaints arising out of the non-renewal of contracts, termination or reduction in force, applications for employment by non-employees or NMMI employee applications for new or different positions. The faculty and administration shall work together to secure a resolution of grievances at the lowest administrative level. Detailed grievance policies and procedures for faculty are included in the [Faculty Handbook](#).

4.12 APPEALS/GRIEVANCE PROCEDURES (NON-FACULTY)

*Subject to Change Without Notice
Authorized by NMMI Regents' Policy 9
"Responsibility of the President/Superintendent of NMMI"*

1. General

In general, grievance actions are initiated because of the failure to rectify an alleged grievance at the lowest supervisory/administrative level. Grievances do not include complaints arising out of the non-renewal of contracts, termination or reduction in force, applications for employment by non-employees or NMMI employee applications for new or different positions. Occasionally, a dispute may arise as a result of an honest difference of opinion in an action, which affects a staff member, which is irresolvable between the employee and the immediate supervisor. Subsequent higher level administrators may also fail to satisfy the grievant, with the result that the President/Superintendent may convene an arbitration panel.

2. Introduction

2.1. Purpose

Good grievance procedures generate equitable solutions to problems by ensuring due process to both the employee and the administration in order to secure a settlement at the lowest administrative level. At the same time, good grievance procedures resolve an issue as speedily as possible without disrupting the major mission of NMMI.

2.2. Definitions

- 2.2.1. A grievance shall mean a complaint that alleges a violation, misinterpretation, or inconsistent application of any of the provisions of the Operations and Procedures Manual or established rules, practices, policies or procedures of NMMI or applicable State Statutes.
- 2.2.2. Day shall mean any day or when an employee is scheduled to be on campus as provided by his/her employment agreement.
- 2.2.3. Grievant shall mean the employee filing a grievance, including a group of employees.
- 2.2.4. Administrative personnel herein defined shall be consistent with the definition provided in the above sections and include all coordinating staff officers.

2.3. General Provisions

- 2.3.1. Proceedings should be informal and confidential as may be appropriate at any level of the procedure.
- 2.3.2. No retaliation shall be taken because of the filing of a grievance.
- 2.3.3. There should be no restrictions on an employee having a complaint to discuss the matter informally with the immediate supervisor or Vice President/ Director level staff officer and having the complaint adjusted providing the adjustment is consistent with established procedures, policies, rules, or laws as may be applicable.
- 2.3.4. There should be no restrictions with the immediate supervisor's normal counseling with the employee prior to or after formal filing of written grievance.
- 2.3.5. The educational mission of NMMI must not be curtailed by any actions.
- 2.3.6. The parties may mutually agree to extension of the time limit specified in this procedure.
- 2.3.7. Grievances not appealed within the time limits of each step shall be considered settled on the basis of the last decision made by the administration. Should the administration not answer within the time limit, the grievance shall automatically advance to the next step.
- 2.3.8. In order to avoid the necessity of filing numerous grievances on the same subject or event, a single grievance may be processed and all the additional substantially identical grievances or subsequent grievances filed promptly shall be settled on the basis of the decision reached. A dispute as to whether or not a grievance is covered by the decision is subject to the grievance procedure.
- 2.3.9. Every effort should be made to expedite processing. By mutual agreements, the grievances may be advanced to any step in an effort to speed processing.
- 2.3.10. All decisions, appeals, and acknowledgments of decisions and appeals must be in writing.
- 2.3.11. Grievance procedures must be initiated within ten (10) days of the alleged event or whenever the employee can reasonably be expected to learn of the event.

3. Procedure

3.1. Step 1-Immediate Supervisor Level

If an employee is unable to resolve the issue informally with his supervisor, the employee or representative may, within ten (10) days of the disputed action, present a written grievance to the supervisor. The written grievance must include:

- 3.1.1. A clear, concise statement of the nature of the grievance.
- 3.1.2. A citation of the official policy (with a documentary source) alleged to have been violated.
- 3.1.3. The alleged violation or reason for the dissatisfaction.
- 3.1.4. The reason the grievant is not satisfied with the decisions of the immediate supervisor.
- 3.1.5. A statement of the remedy the grievant is seeking to achieve.
- 3.1.6. The date and signature of the person or representative.
- 3.1.7. Any other pertinent information. The supervisor will provide a written receipt of a copy of the complaint and will forward the complaint to the appropriate Vice President/ Director within five (5) days.

3.2. Step 2-Vice President/Director Level

The party shall schedule a meeting within ten (10) days from the Vice President/Director receipt of the grievance in an attempt to resolve the issue. Within ten (10) days after the conclusion of the meeting or meetings in Step 2, the Coordinating Level Staff Officer must issue a written decision to the grievant and to the other parties involved for acknowledgment.

3.3. Step 3-Arbitration and President/Superintendent Review Level

If the grievant is not satisfied with the decision in Step 2, a written demand for advisory arbitration is to be delivered to the President/Superintendent of NMMI within ten (10) days after the grievance's receipt of the Vice President's/Director's written decision. The parties shall attempt to agree upon an arbitrator from NMMI within five (5) days of the President /Superintendent's receipt of the demand for arbitration. If agreement is not reached, the matter shall be referred to the Chief Financial Officer for three (3) names for consideration as an arbitrator. If the parties cannot agree on one of the three, the administration first and then the grievant shall each strike out one of the names and the remaining person shall hear and decide the dispute. Such a hearing shall be held within thirty- (30) days of the President /Superintendent's receipt of the demand for arbitration, unless the arbitrator's schedule will not accommodate the parties. The arbitrator's written recommendation shall be issued at the earliest possible time, but not to exceed thirty- (30) days after the close of the hearing, to the President/Superintendent and to all parties involved.

The arbitrator shall not have the power to add to, subtract from, or modify in any way any procedures, rules, policy, or laws, but shall be limited to deciding the alleged violation, misinterpretation, or inequitable application.

Only information or records, which were available at the time action arose and led to the filing of the grievance or were used in processing the grievance, may be used in the hearing. Both parties are to have access to evidence and facts to be used.

Arbitration hearings will not be recorded – no official record nor will representatives be allowed.

The President/Superintendent must issue a written acceptance, modified acceptance, or rejection of the arbitrator's recommendation to the grievant and other parties involved within fifteen (15) days of the receipt of the recommendation and his decision must be acknowledged in writing by the grievant and other parties.

3.4. Step 4-Board of Regents Level

If the grievant is not satisfied with the decision of the President/Superintendent, she/he must provide written notice of appeal to the Board of Regents for review within ten (10) days after receipt of the President's/Superintendent's written decision.

3.5. Step 5-Conclusion of the Administrative Process

If the grievant provides a timely written notice of appeal to the Board of Regents, a hearing shall be scheduled before the Board of Regents at a time to be determined by the Board of Regents. All parties to the grievance shall have a right to be represented by counsel, to call witnesses and present relevant evidence. The New Mexico Rules of Civil Procedure and Rules of Evidence shall not apply. The grievant will be notified in writing of the Board's decision within ten (10) days of the hearing. The decision of the Board of Regents shall be final and binding.

4.13 (INSPECTION OF PUBLIC RECORDS) PUBLIC ACCESS TO NMMI RECORDS

*Subject to Change Without Notice
Authorized by Regents' Policy 9
"Responsibility of the President/Superintendent of NMMI"*

1. Introduction

Citizens in a democracy have a fundamental right to have access to public records. This right is recognized by the New Mexico Legislature through the New Mexico Inspection of Public Records Act, NMSA 1978, §§ 14-2-1 et seq. ("IPRA"), and by the New Mexico Supreme Court, which stated in 1977 that a citizen's right to know is the rule and secrecy is the exception. This Policy and other related policies deal in whole or in part with the legal obligations of NMMI under IPRA. IPRA provides that every person has a right to inspect the public records of this state, subject to certain exceptions. "Public records" are defined by IPRA as all documents and records, regardless of physical form, that are used, created, received, maintained or held by or on behalf of any public body and relate to public business, whether or not the records are required by law to be created or maintained.

2. General

NMMI is committed to fully complying with IPRA, and to making certain that pertinent NMMI policies conform to existing IPRA requirements. Nevertheless, the right of public inspection under IPRA is subject to certain exceptions. The right of public inspection is limited to existing public records, and NMMI is not required to create a public record that does not otherwise exist. Exceptions to the right to inspect public records that are specifically listed in IPRA include, but are not limited to, medical records, letters of reference concerning employment, licensing or permits, matters of opinion in personnel or student files, confidential law enforcement records, documents covered by the Confidential Materials Act, trade secrets, attorney-client privileged information, and records that are considered non-public "as otherwise provided by law." Listing every kind of record that is exempt from IPRA disclosure requirements is not practical, and no attempt has been made in this and the related policies to interpret the application of IPRA to every kind of record that may become the subject of an IPRA request. However, some examples of records that NMMI considers exempt from public disclosure under IPRA include employee Social Security numbers, personnel evaluations, opinions regarding whether a person would be re-hired or regarding why an applicant was not hired, proprietary and protected information provided by a third party, and data relating to intellectual property or research that may result in patentable inventions, significant discoveries, or publications. If a document contains both exempt and nonexempt information, NMMI must separate the nonexempt material and make it available for inspection.

Medical records are exempt from public inspection under IPRA. Medical records are covered by the Health Insurance Portability and Accountability Act (HIPAA). Student

records are exempt from public inspection as provided under the Family Educational Rights and Privacy Act (“FERPA”). Students requesting their records should contact NMMI Registrar. If student records are requested, NMMI will comply with FERPA, which pertains to all student records.

3. Custodian

The NMMI Custodian of Public Records (the "Custodian"), the Legal/Adjutant Chief of Staff, is the official custodian of public records for NMMI. The Custodian is responsible for:

- 3.1. responding to all requests to inspect public records on a timely basis;
- 3.2. determining whether requested records exist and where they are located;
- 3.3. providing proper and reasonable opportunities to inspect public records, including assembling the records as appropriate;
- 3.4. providing reasonable facilities to make copies or furnish copies of the public records during usual business hours;
- 3.5. maintaining a log of all requests that include the date and nature of the request, a copy of the request, any correspondence relating to the request, date of the response, copies of all documents made available in the response, and any other pertinent information

Only the Custodian, or a designee of the Custodian, may respond to requests for public records, except for requests for medical records or student records as specified in Section 2 herein.

4. Procedure for Requesting Public Records

Individuals who want to inspect public records of NMMI or student records, must submit a request to the Custodian, identifying the records sought with reasonable particularity. Oral requests are generally permissible, but the Custodian may, for good cause, ask the requester to make a formal request in writing. A written request must include the requester's name, address and telephone number. Requests for information submitted electronically shall be considered and treated the same as a written request. No person requesting records shall be required to state the reason for inspecting the records. Any NMMI employee who receives a request for inspection of public records shall promptly forward the request to the Custodian and notify the requester that the request has been forwarded.

4.1. Time Required for Compliance

The time requirements in this section reflect the requirements of IPRA, and are based on the date when the written request is received by the Custodian. If the records sought are subject to public inspection under IPRA, the Custodian shall permit inspection sought by a written request immediately or as soon as is practicable under the circumstances, but not later than fifteen (15) days after receiving such written request. The custodian will strive to provide an opportunity to inspect the requested records within three (3) business days. If the inspection is not permitted within three (3) business days, the Custodian

shall explain to the requester in writing when the records will be available for inspection or when NMMI will respond to the request. Excessively burdensome or broad requests where compiling or copying documents may be unduly time consuming or difficult may require more than fifteen (15) calendar days. In such cases, the Custodian shall notify the requester within fifteen (15) calendar days of the need for additional time, the reason for the delay, and the date the records will be available for inspection. If NMMI does not respond to the requester within fifteen (15) calendar days, the request will be deemed to have been denied and the requester may seek judicial remedies under IPRA. For this reason, it is critical that written requests for public records be forwarded to the Custodian immediately as specified in Section 4 herein.

4.2. Cost of Providing Records

As permitted by IPRA, NMMI will normally charge for copying records in accordance with the fee schedule published by the Custodian. If the estimated cost exceeds ten dollars (\$10), the Custodian should provide an estimate of the charges and may require advance payment before making copies. If NMMI determines the information primarily benefits the general public, NMMI may waive or reduce the charges. NMMI may require payment of overdue balances before processing additional requests from the same requester.

5. Denial of Request

If a written request is denied, in whole or in part, the Custodian must deliver or mail to the requester a written explanation no later than fifteen (15) calendar days after the Custodian received the written request. The explanation of denial must describe the records sought, the legal reason for the denial, the names and titles or positions of each person responsible for the denial, and the requester's right to pursue the remedies provided in IPRA. When a request is denied, the requested records must be retained until remedies under IPRA have been exhausted.

6. References and Related Information

- [Criminal Offender Employment Act](#) NMSA 1978 §§ 28-2-1 et seq.
- [Family Educational Rights and Privacy Act](#), 20 U.S.C. § 1232g
- [Fair Credit Reporting Act](#) 9 (FCRA) 15 U.S.C. § 1681 et seq.
- [Federal Privacy Act of 1974](#) (5 U.S.C. Sec. 552a)
- [Financial Services Modernization Act of 1999](#), also known as the [Gramm-Leach-Bliley Act or GLBA](#), [GLBA Safeguards Rule](#), 16 CFR Part 314
- [Public Records Act 14-3-1 et seq., NMSA 1978](#)
(Please click - III.G.2 Public Records, Article 3)

4.14 ALTERNATIVE DISPUTE RESOLUTION POLICY (ADR)

*Subject to Change without Notice
Authorized by Regents' Policy 9
"Responsibility of the President/Superintendent of NMMI"*

1. Purpose

The purpose of this policy is to provide interested parties (employees, supervisors, managers, vendors, contractors and public stakeholders) with a range of dispute resolution options for preventing and/or resolving conflict and disputes at the earliest and lowest level of formality possible. All parties are encouraged to attempt to resolve disputes at the earliest practical opportunity and to promote fair and mutually respectful relationships. NMMI affirmatively supports and adopts the goals and policies set forth by the NM Governmental Dispute Prevention & Resolution Act 912-8A-3-A NMSA 1978.

2. Scope/Applicability

The NMMI ADR program and procedures are available to any interested party having or anticipating a dispute with NMMI, or a representative of that person. This policy and procedures apply to any dispute, issue or controversy involving any of the agency's operations, policies, programs, or functions, including formal and informal adjudications, rulemakings, enforcement actions, permitting, certifications, licensing, policy development and contract administration.

3. Definitions:

- | | |
|--|--|
| <ul style="list-style-type: none"> a. Alternative Dispute Resolution (ADR) b. ADR Coordinator c. Interested party | <ul style="list-style-type: none"> d. Neutral 3rd party e. Conflict/Dispute |
|--|--|

4. Voluntary Participation Required

Participation in the ADR process is strictly voluntary. Any party to a dispute may choose to voluntarily participate or decline to participate in the ADR process free from interference, restraint or coercion.

5. Civil Conduct Required

Parties who have committed to an ADR process agree to participate in good faith and conduct themselves in a civil, courteous and respectful manner in order to create a safe environment and fair process. The parties will also comply with other codes of conduct as applicable.

6. Retaliation Prohibits

Any interested party involved in the ADR process is guaranteed the right to present or make known their complaints, free from interference, restraint, discrimination, coercion, reprisal, or other retaliation. Alleged retaliatory action or inaction will be taken seriously, investigated thoroughly and, if substantiated, will be addressed by appropriate administrative corrective action.

7. Confidentiality

Participation in and communications in ADR processes are strictly confidential. Parties (including any other participants such as representatives, interpreters, etc.) to an ADR process will be required to sign an Agreement to Mediate and/or Confidentiality Agreement which prohibit discussion or disclosure of what occurs during the ADR process. Likewise, the ADR staff, outside mediator, or other persons utilized to assist with this process, shall not testify nor produce documents concerning any matter submitted pursuant to this policy, except by order of a court with competent jurisdiction. However, ethical and legal obligations may require disclosure to appropriate third parties in limited circumstances; examples include threats of imminent physical harm and the prevention of criminal or illegal activity.

8. Intake & Referral Procedures:

Interested parties may contact the Agency ADR Coordinator to initiate an ADR assessment. If the matter is determined appropriate for ADR, the ADR Coordinator will explain the available processes. If both parties agree to proceed, they will complete and sign the appropriate forms; signing the forms does not constitute an obligation to complete the ADR process or to reach a binding conclusion. The ADR Coordinator will then schedule a mediator, facilitator or 3rd party neutral(s), and a suitable date and location for the ADR process to take place.

9. Recordkeeping & Reporting:

Upon the conclusion of the selected ADR process, all documents, including notes of the parties, will be destroyed, with the exception of the Confidentiality Agreement, Mediation and Confidentiality Agreement (if any) and the Settlement Agreement (if any). This requirement to destroy records pertaining to a specific dispute does not prohibit the compilation and maintenance of statistical data regarding the program in order to track its effectiveness and to report to the State of NM. At a minimum, Agency ADR Coordinators should collect and maintain data to satisfy the requirements of the GSD/RMD ADR Bureau to report to the Governor, Legislature and ADR Council on the use, cost and success of ADR programs: Other important considerations for ADR Coordinators pertaining to Recordkeeping:

- Collect only data that is needed.
- Protect anonymity of participants and cases.

- File hard copy and electronic files separately from other (HR) files; protect sensitive data through use of “firewalls”
- Comply and adhere to established **non-disclosure** policy requirements.

10. Approved Work Release Time:

Time spent in and ADR process is considered part of an employee’s normal work time. Therefore supervisors and managers are strongly encouraged to ensure that reasonable efforts and time are made available to allow employees to participate in ADR processes, whether as a party to the dispute or in the role of mediator/facilitator. A policy approving work release time for ADR processes is in keeping with the goal of preventing and/or resolving conflict and disputes at the earliest and lowest level of formality possible and to promoting fair and mutually respectful relationships.

11. Mediation Reconvening:

The purpose of mediation is to allow the disputing parties to take primary responsibility (with mediator guidance) for arriving at their own solutions. The decision to continue beyond one or more mediation session will be determined by the parties in consultation with the mediator. Likewise, the enforceability of the terms of a settlement agreement rests primarily with the disputing parties. If either or both parties feel that the terms of an agreement are not being adhered to, any party may request a “loopback” to mediation by reconvening the mediation process, provided both parties and the mediator are in agreement.

SECTION 5: STANDARDS OF CONDUCT



POLICY	POLICY NUMBER
<u>Harassment/Discrimination</u>	5.01
<u>Staff Dress Code and Personal Appearance</u>	5.02
<u>Protection of Confidential Information</u>	5.03
<u>Drug and Alcohol Policy</u>	5.04
<u>Drug Free Workplace, Drug Free School</u>	5.05
<u>Tobacco Policy</u>	5.06
<u>Children and Other Non-Employees</u>	5.07
<u>Public/Political Affairs Participation</u>	5.08
<u>Parking and Traffic Regulations</u>	5.09
<u>Dishonest or Fraudulent Activities</u>	5.10
<u>Code of Conduct</u>	5.11
<u>Campus Violence</u>	5.12
<u>On-Campus Sales and Solicitations</u>	5.13
<u>Outside/Additional Employment</u>	5.14
<u>Political Campaign Activity on Campus</u>	5.15
<u>Personnel Information Disclosure Policy</u>	5.16

5.01 HARASSMENT/DISCRIMINATION

*Subject to Change Without Notice
Authorized by NMMI Regents' 9
"Responsibility of the President/Superintendent of NMMI"*

1. Purpose and Philosophy

Harassment is abusive and an illegal behavior that harms complainants and negatively impacts NMMI's culture by creating an environment of fear, distrust and intolerance. Because NMMI is committed to providing a safe, healthy environment for all employees and cadets that promotes respect, dignity, and equality, it is the purpose of this policy to create and preserve an educational environment free from sexual and other harassment and discrimination on the basis of sex, sexual orientation, gender identity, race, color, religion or national origin.

2. References

2.1. [20 U.S.C. §1681, Education Amendments of 1972, Title IX.](#)

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.

2.2. [34 C.F.R. §§ 106.1-106.71, U.S. Department of Education Office for Civil Rights Regulations Implementing Title IX.](#)

Requires designation of Title IX Coordinator, grievance procedure, and public notice of Title IX policies and procedures.

2.3. [42 U.S.C. § 2000e, Civil Rights Act of 1964, Title VII.](#)

Prohibits employers from discriminating on the basis of sex

2.4. [29 C.F.R. § 1604.11, Equal Employment Opportunity Commission \(EEOC\) Regulations Implementing Title VII.](#)

2.5. [Campus SaVE Act, 2013](#)

2.6. [§ 28-1-2, et seq. NMSA \(1978\), New Mexico Human Rights Act
\[http://law.justia.com/codes/new-mexico/2006/nmrc/jd_28-1-2-bcab.html\]\(http://law.justia.com/codes/new-mexico/2006/nmrc/jd_28-1-2-bcab.html\)](#)

3. Policy

3.1. In order to provide a safe and healthy environment that encourages respect, dignity and equality it is NMMI policy to provide an educational environment free from harassment and discrimination. Under both Title VII of the Civil Rights Act of 1964 and Title IX of the Educational Amendments of 1972, NMMI considers harassment to be unlawful discrimination. Finally, sexual harassment/assault by any individual may constitute a sexual crime or child abuse under the State Criminal Code.

- 3.2. NMMI strictly prohibits all forms of prohibited harassment on its premises, NMMI provided transportation and at all NMMI-sponsored activities, programs and events including those that take place at locations away from NMMI. NMMI also strictly prohibits all forms of prohibited harassment against individuals associated with NMMI whether or not the harassment occurs on NMMI grounds.
- 3.3. Because harassment can occur adult to cadet, cadet to adult, cadet to cadet, male to female, female to male, male to male or female to female, it shall be a violation of this policy for any cadet, employee, or third party (NMMI visitors, vendors, etc.) to harass any cadet, employee, or any other individual associated with NMMI (i.e., parents, contractors, maintenance workers, consultants etc.).
- 3.4. NMMI encourages all complainants of harassment and persons with knowledge of harassment to report the harassment immediately. All complainants have the right to be free from retaliation of any kind.
- 3.5. NMMI will promptly investigate all formal, informal, verbal and written complaints of harassment, and take prompt corrective action to end the harassment.

4. Definitions

- 4.1. “Sexual harassment” means unwelcome sexual advances, requests for sexual favors, other physical or verbal conduct or communications of a sexual nature, and any other gender-based harassment, whether initiated by cadets, NMMI employees, or third parties when:
 - 4.1.1. Submission to the conduct is made explicitly or implicitly a term or condition of employment or a cadet’s education (including any aspect of the cadet’s participation in NMMI-sponsored activities, or any other aspect of the cadet’s education);
 - 4.1.2. Submission to or rejection of the conduct is used as the basis for decisions affecting employment or a cadet’s academic performance or participation in NMMI-sponsored activities, or any other aspect of a cadet’s education;
 - 4.1.3. The conduct has the purpose or effect of unreasonably interfering with an employee’s performance or cadet’s academic performance or participation in NMMI-sponsored activities, or creating an intimidating, hostile or offensive educational or work environment.

5. Unacceptable Conduct

- 5.1. Complaints received will be thoroughly investigated to determine whether the totality of the behavior and circumstances meet any of the elements of the definitions described above and should be treated as harassment. Unacceptable conduct may or may not constitute harassment. Normally, unacceptable behavior must be severe or pervasive to be considered harassment. In evaluating the totality of the circumstances and making a determination of whether conduct constitutes harassment, faculty and staff who observe

unacceptable behavior, as well as administrators conducting an investigation, should consider:

- 5.1.1. Is the conduct sexual in nature?
 - 5.1.2. Is the conduct derogatory toward one based on that person's gender, sexual orientation, religion, ethnicity or the like?
 - 5.1.3. Is the conduct unwelcome?
 - 5.1.4. Would the behavior be offensive to a reasonable person of the same gender as the complainant?
 - 5.1.5. The nature, severity, and scope of the incidents;
 - 5.1.6. The number of employees or cadets involved directly or indirectly;
 - 5.1.7. The ages of the parties involved;
 - 5.1.8. The relationship of the parties involved and whether there is equal power between the parties;
 - 5.1.9. The past discipline history of the parties involved;
 - 5.1.10. The frequency and duration of the behavior;
 - 5.1.11. Whether there is a pattern of behavior;
 - 5.1.12. Whether the conduct is verbal or physical.
- 5.2. **EXAMPLES:** NMMI-related conduct that New Mexico Military Institute considers unacceptable and often a part of sexual harassment includes, but is not limited to, the following:
- 5.2.1. Rape, attempted rape, sexual assault, attempted sexual assault, forcible sexual abuse, hazing, and other sexual and gender-based activity of a criminal nature as defined under the State Criminal Code.
 - 5.2.2. Unwelcome sexual invitations or requests for sexual activity in exchange for grades, promotions, preferences, favors, selection for extracurricular activities or job assignments, homework, etc.
 - 5.2.3. Unwelcome and offensive public sexual display of affection, including kissing, making out, groping, fondling, petting, inappropriate touching of one's self or others, sexually suggestive dancing, and massages.
 - 5.2.4. Any unwelcome communication that is sexually suggestive, sexually degrading or implies sexual motives or intentions, such as sexual remarks or innuendoes about an individual's clothing, appearance or activities; sexual jokes; sexual gestures; public conversations about sexual activities or exploits; sexual rumors and "ratings lists;" howling, catcalls, and whistles; sexually graphic computer files, messages or games, etc.
 - 5.2.5. Unwelcome and offensive name-calling or profanity that is sexually suggestive, sexually degrading, implies sexual intentions, or that is based on sexual stereotypes or sexual preference;

- 5.2.6. Unwelcome physical contact or closeness that is sexually suggestive, sexually degrading, or sexually intimidating such as the unwelcome touching of another's body parts cornering or blocking an individual, standing too close, spanking, pinching, following, stalking, frontal-body hugs, etc.
- 5.2.7. Unwelcome and sexually offensive physical pranks or touching of an individual's clothing, pinching; placing hands inside an individual's pants, shirt, blouse, or dress, etc.
- 5.2.8. Unwelcome leers, stares, gestures, or slang that are sexually suggestive, sexually degrading or imply sexual motives or intentions.
- 5.2.9. Clothing with sexually obscene or sexually explicit slogans or messages.
- 5.2.10. Unwelcome and offensive skits, assemblies, and productions that are sexually suggestive, sexually degrading, or that implies sexual motives or intentions, or that are based on sexual stereotypes.
- 5.2.11. Unwelcome written or pictorial display or distribution of pornographic or other sexually explicit materials such as magazines, videos, and films.
- 5.2.12. Any other unwelcome gender-based behavior that is offensive, degrading, intimidating, demeaning, or that is based on sexual stereotypes and attitudes.

6. Reporting Procedures and Responsibility

6.1. Persons who believe they may have experienced sexual harassment must report the incidents to any of the following:

- Commandant
- Chief of Staff
- Dean of Students
- Human Resources
- their supervisor or manager
- director, chair of a department
- Internal Audit
- Campus Police
- Athletic director
- Infirmary

6.2. NMMI must take corrective action when it becomes aware of problems. Therefore, NMMI encourages persons who believe that they have experienced or witnessed discrimination or harassment as prohibited by this policy to promptly come forward with their inquiries, reports, or complaints and to seek assistance from the Institute. Individuals also have the right to pursue a legal remedy for discrimination or harassment that is prohibited by law, in addition to or instead of proceeding under this policy.

6.3. Reporting Responsibility

6.3.1. NMMI faculty, administrators, and supervisors who witness or receive a written or oral report or complaint of sex discrimination, sexual harassment, or sexual violence are required to engage in appropriate measures to prevent violations of this policy and promptly notify Human Resources or those listed in 6.1 above, including notification of any actions taken to achieve informal resolution of the complaint. NMMI relies on its employees to notify those listed in 6.1 above of all disclosures of sex discrimination, sexual harassment, and sexual violence against students and employees.

6.3.2. Further, if a supervisor fails to take action when he or she knows, or reasonably should have known, that a student or a subordinate employee is being subjected to sexual harassment, that supervisor could be held in violation of this policy. NMMI encourages reporting of all known or suspected unwelcome conduct especially sexual in nature.

6.3.3. This section of the policy does not obligate an individual who is required by professional or NMMI responsibilities to keep certain communications confidential (e.g., licensed healthcare professional, HIPPA Law) to report confidential communications received while performing those NMMI responsibilities

6.4. Reporting Sexual Violence

6.4.1. In addition to violating Title IX and NMMI policy, some forms of sexual harassment may constitute criminal activity. NMMI encourages individuals who have experienced unwelcome sexual behavior that involves sexual violence or threatening behavior to contact the NMMI Campus Police Department (575-624-8421) or local law enforcement agencies (911), as soon as possible after the offense occurs in order to preserve evidence necessary for the proof of criminal offenses.

7. Complaint Procedures

- 7.1. In compliance with applicable federal and state law, it is the policy of NMMI to investigate promptly and resolve equitably all complaints of harassment and discrimination.
- 7.2. Complainants of harassment or discrimination shall be afforded avenues for filing complaints, which are free from bias, collusion, intimidation, or reprisal. Upon filing complaints, complainants may request an investigator of their same gender and may be represented by any person of their choice.
- 7.3. Complainants of harassment should document the harassment as soon as it occurs. In order to assist investigators, complainants should document the harassment with as much detail as possible, including the nature of the harassment; dates, times, and places it has occurred; name of harasser(s); witnesses of the harassment; and the complainant's response to the harassment.
- 7.4. To the extent they feel safe and comfortable doing so, complainants are first encouraged to confront their harasser, verbally or in a letter and/or with an advocate present, and tell the harasser to stop the conduct because it is unwelcome. Complainants should document the incident(s) of harassment, and any conversations they have with the harasser, noting such information as time, date, place, what was said or done, and other relevant circumstances surrounding the incident(s) and the effect/ impact of the behavior on the complainant.
- 7.5. If the complainant's concerns are not resolved satisfactorily by communicating with the harasser, or if the complainant feels he/she cannot discuss the concerns with the harasser, the complainant should directly inform appropriate NMMI staff of the complaint and should clearly indicate what action he/she wants taken to resolve the complaint.
- 7.6. Any NMMI employee receiving a complaint of harassment from a cadet shall inform the cadet of the employee's obligation to report the complaint to the NMMI administration, and then shall immediately notify the appropriate Vice President or Legal Advisor.
- 7.7. Employees who fail to report cadet complaints of harassment to the NMMI Administration or appropriate Vice President or law enforcement authorities may face disciplinary action, up to and including reprimand probation, or termination.
- 7.8. NMMI administrators or officials who fail to report or investigate cadet complaints of harassment may also face disciplinary action, including reprimand, probation, or termination.
- 7.9. Complainants who contact NMMI staff with a complaint are encouraged to submit the complaint in writing. However, complaints may be filed verbally.
- 7.10. Complaints are encouraged to be reported as soon as possible, i.e., within ninety (90) days after the incident, in order to be effectively investigated and resolved.

7.11. Reports/Complaints to Law Enforcement Authorities

Consistent with NMMI policy, where a complaint contains evidence of violence or criminal activity, the NMMI administration shall refer the complaint to the appropriate law enforcement authorities for investigation. NMMI encourages any individual who has knowledge of harassment of violent or criminal nature to independently report the information to the appropriate law enforcement authorities.

7.12. Child Abuse

Any sexual harassment complaint containing evidence of child abuse shall be immediately referred to the appropriate authorities and/or law enforcement authorities according to the reporting requirements of state law (e.g., mandatory reporting of physical or sexual abuse of cadets; mandatory reporting of child abuse). Nothing in this policy prohibits NMMI from taking immediate action to protect complainants of alleged child abuse. The accused employee shall be placed on administrative leave pending the outcome of the investigation.

8. Confidentiality

8.1. It is NMMI's policy to respect the privacy and anonymity of all parties and witnesses to complaints brought under this policy. However, an individual's need for confidentiality must be balanced with NMMI's obligations to cooperate with police investigations or legal proceedings. In order to provide due process to the accused, to conduct a thorough investigation, or to take necessary action to resolve a complaint, NMMI retains the right to disclose the identity of parties and witnesses to complaints in appropriate circumstances to individuals with a need to know.

8.2. Where a complaint involves allegations of child abuse, the complaint shall be immediately reported to appropriate law enforcement authorities and the anonymity of both the complainant and school officials involved in the investigation will be strictly protected as required by state law.

9. Initial (Informal) Investigation and Resolution Procedures

9.1. The Vice Presidents, Directors or their designated representatives have the responsibility to conduct a preliminary review when they receive a verbal or written complaint of harassment, or if they observe harassment. Except in the case of severe or criminal conduct, the Vice Presidents, Directors or their designated representative should make all reasonable efforts to resolve complaints informally. The goal of informal investigation and resolution procedures is to end the harassment and obtain a prompt and equitable resolution to a complaint.

9.2. As soon as possible but not later than three (3) working days following receipt of a complaint, the Vice Presidents, Directors and/or their designated representative should appoint an investigator. The investigator will investigate the complaint according to the following steps:

- Interview the complainant and document the conversation. Instruct the complainant to have no contact or communication regarding the complaint with the alleged harasser. Ask the complainant specifically what action he/she wants taken in order to resolve the complaint. Refer the complainant, as appropriate, to Cadet Counseling Center, advisors, or other school staff or appropriate outside agencies for counseling services.
- Review any written documentation of the harassment prepared by the complainant. If the complainant has not prepared written documentation, instruct the complainant to do so.
- Interview the alleged harasser regarding the complaint and inform the alleged harasser that if the objectionable conduct has occurred, it must cease immediately. Document the conversation. Provide the alleged harasser an opportunity to respond to the charges in writing.
- Instruct the alleged harasser to have no contact or communication regarding the complaint with the complainant and to not retaliate against the complainant. Warn the alleged harasser that if he/she makes contact with or retaliates against the complainant, he/she will be subject to immediate disciplinary action.
- Interview any witnesses to the complaint. Where appropriate, obtain a written statement from each witness. Where appropriate, caution each witness to keep the complaint and his/her statement confidential.
- Review all documentation and information relevant to the complaint.

9.3. Where appropriate, suggest mediation as a potential means of resolving the complaint. In addition to mediation, utilize appropriate informal methods to resolve the complaint, including but not limited to:

- Discussion with the accused, informing him or her of NMMI's policies and indicating that the behavior must stop.
- Suggesting counseling and/or sensitivity training.
- Conducting training for the department or division in which the behavior occurred, calling attention to the consequences of engaging in such behavior.
- Requesting a letter of apology to the complainant.
- Writing letters of caution or reprimand.
- Separating the parties.

- 9.4. **Parent/Cadet/Employee Involvement and Notification**
 Parents of both complainant and accused shall be notified within one school day of allegations that are serious or involve repeated conduct. The parents or advocates of cadets who file complaints are welcome to participate at each stage of both informal and formal investigation and resolution procedures.
- 9.5. Report back to both the complainant and accused, notifying them in writing, and also in person as appropriate regarding the outcome of the investigation and the action taken to resolve the complaint. Instruct the complainant to report immediately if the objectionable behavior occurs again or if the alleged harasser retaliates against him/her.
- 9.6. Notify the complainant that if he/she desires further investigation and action, he/she may request a NMMI level investigation by contacting the President/Superintendent. Also notify the complainant of his/her right to contact the U.S. Department of Education's Office for Civil Rights, the State Human Rights/Civil Rights agencies, and/or a private attorney
- 9.7. Whenever a sexual harassment complaint is made, NMMI administrators will take action to investigate the complaint or to refer the complaint for investigation even if the employee/ cadet does not request any action or withdraws the complaint.
- 9.8. If the initial investigation results in a determination that harassment did occur, and the harasser repeats the wrongful behavior or retaliates against the complainant, NMMI will take prompt disciplinary action and will notify the President Superintendent, Chief Financial Officer and/or the Vice President and/or Director.
- 9.9. The President/Superintendent and/or the Vice Presidents and/or Directors must consider the severity or pervasiveness of the conduct and exercise discretion in determining whether a NMMI level investigation is necessary. If a complaint contains evidence or allegations of serious or extreme harassment such as adult to cadet harassment, criminal touching, quid pro quo (e.g., offering a reward or punishment as an inducement for sexual favors), or acts which shock the conscience of a reasonable person, the complaint shall be referred promptly to the appropriate NMMI administrators, i.e., Human Resources. In addition, where the President/Superintendent has reasonable suspicion that the alleged harassment involves criminal activity, he/she should immediately contact appropriate law enforcement authorities. Where criminal activity is alleged or suspected, the accused employee shall be placed on administrative leave pending the outcome of the investigation.

10. NMMI Level Investigation

The NMMI administrators shall promptly investigate and resolve all harassment complaints that are referred to them as well as those appealed to NMMI by parties to the complaint. Any party who is not satisfied with the outcome of the initial

investigation may request an NMMI investigation by submitting a written complaint to the Chief Financial Officer and appropriate Vice President or NMMI official.

- 10.1. The NMMI level investigation should commence as soon as possible but not later than three (3) working days following receipt of the complaint by the NMMI administrator.
- 10.2. In conducting the NMMI level investigation, NMMI will use investigators who have received formal training in harassment investigation or that have previous experience investigating harassment complaints.
- 10.3. If a NMMI investigation results in a determination that harassment did occur, prompt corrective action will be taken to end the harassment. Where appropriate, NMMI investigators may suggest mediation as a means of exploring options of corrective action and informally resolving the complaint.
- 10.4. No later than thirty (30) days following receipt of the complaint, NMMI will notify the complainant and alleged harasser, in writing, of the outcome of the investigation. If additional time is needed to complete the investigation or take appropriate action, NMMI will provide all parties with a written status report within thirty (30) days following receipt of the complaint.

11. Right to Representation and Other Legal Rights

The complainant and the alleged harasser have the right to be represented by a person of their choice, at their own expense, during harassment investigations and hearings. Cadets who file complaints may elect to be accompanied by a parent/guardian or another cadet of their choice at each stage of the complaint procedure. Complainants also have the right to register harassment complaints with the U.S. Department of Education’s Office for Civil Rights (OCR):

U.S. Department of Education
Office for Civil Rights, Region VIII
Federal Office Building
1244 Speer Boulevard, Suite #310
Denver, CO 80204
Tel: (303)844-5695

Nothing in this policy shall be construed to limit the right of the complainant to file a charge or a lawsuit in either state or federal court.

12. Retaliation Prohibited

Any act of retaliation against any person who opposes harassing behavior, or who has filed a complaint, is prohibited and illegal, and therefore subject to disciplinary action. Likewise, retaliation against any person who has testified, assisted, or participated in any manner in an investigation, proceeding, or hearing of harassment complaint is prohibited. For purposes of this policy, retaliation includes but is not limited to: verbal or physical threats, intimidation, ridicule, bribes, destruction of property, spreading rumors, stalking, harassing phone calls, and any other form of harassment. Any person who retaliates is subject to immediate disciplinary action, up to and including suspension, dismissal, probation or termination.

13. Discipline

13.1. Any individual, who violates this policy will be subject to appropriate disciplinary action under applicable NMMI discipline policies. Disciplinary measures available to NMMI authorities include, but are not limited to, the following:

- Verbal warnings/reprimands.
- Written warning/reprimand in employee or cadet files.
- Requirement of verbal and/or written apology to complainant.
- Mandatory education and training on sexual and other harassment by means of reading assignments, videos, classes, or other presentations.
- Requiring a written paper on the topic of harassment.
- Referral for psychological assessment or treatment.
- Involvement of police and other law enforcement authorities.
- Community service.

13.2. In addition, if the harassment is severe or persistent, an individual who violates this policy may be subject to transfer, suspension, dismissal, probation or termination. Moreover, cadets who violate this policy may lose the privilege of participating in extra-curricular activities including athletics. These penalties may be imposed even for first offenses, which are severe or extreme.

13.3. In determining what disciplinary or corrective action is appropriate, NMMI officials shall consider the totality of the circumstances, including but not limited to:

- The number of complainants and harassers involved.
- The ages of the complainants and harassers.
- The prior disciplinary record of the harasser.
- The threatened or actual harm caused by the harassment.
- The frequency and/or severity of the harassment.

13.4. If NMMI administrators have reasonable suspicion that the harassment involves sexual assault, rape, or any other activity of a criminal nature, they shall notify appropriate law enforcement authorities and immediately initiate appropriate due process proceedings to remove the accused party from the situation.

14. False Complaints

False or malicious complaints of harassment may result in corrective or disciplinary action taken against the complainant.

15. Training

- 15.1. All employees shall be informed of this policy. All NMMI employees shall receive training about the policy at the beginning of each school year.
- 15.2. All new employees shall receive information about this policy at new employee orientation. All other employees shall be provided information at least once a year regarding this policy and NMMI's commitment to a harassment-free learning and working environment.
- 15.3. The NMMI officials who have specific responsibilities for investigating and resolving complaints of harassment shall receive yearly training on this policy and related legal developments.
- 15.4. The Chief of Staff and/or Human Resources shall be responsible for informing faculty and staff on a yearly basis of the terms of this policy. Including the procedures established for investigation and resolution of complaints, general issues surrounding sexual or other harassment, the rights and responsibilities of cadets and employees, and the impact of harassment on the complainant.
- 15.5. In the case of students, the Commandant Office shall be responsible for informing students of this policy and policies under the NMMI Blue Book.

16. Records

Separate confidential records of all harassment complaints and NMMI-level investigations shall be maintained in the office of the Chief of Staff and/ or Human Resources. Records of NMMI investigations shall be maintained in the office of the Chief of Staff and/or Human Resources.

- 16.1. Records of Initial level (informal) investigations and resolutions shall be retained for at least one (1) year.
- 16.2. Records of NMMI level investigations shall be retained for at least three (3) years.
- 16.3. Records of complaints and investigations of blatant violations involving criminal touching, quid pro quo, other criminal acts, or acts that shock the conscience of a reasonable person shall be retained permanently.

17. Policy Dissemination and Review

A summary of this policy and related materials shall be posted in a prominent place at NMMI. The policy shall also be published in cadet registration materials, cadet and parent handbooks, the Operations and Procedures Manual and other appropriate NMMI publications as directed by the President/Superintendent.

5.02 STAFF DRESS CODE AND PERSONAL APPEARANCE

*Subject to Change Without Notice
Authorized by NMMI Regents' 9
"Responsibility of the President/Superintendent of NMMI"*

1. Purpose

The purpose of this Code is to ensure that employees in civilian attire maintain a professional, business-like image **at all times**.

2. Policy

NMMI is a military school; and as such, all personnel are expected to comply with a high standard of personal appearance. As representatives of NMMI, employees have a responsibility to protect the image of the school while performing their duties on campus, attending or working sports events, and when representing the school at public events. Business attire, coupled with a clean, well-groomed appearance, will maintain the desired NMMI image. NMMI is committed to ensure that its personal appearance and dress policy is not discriminatory and is applied equally to both genders, and will accommodate, as possible, exceptions based upon disability, religious, ethnic or health reasons. This policy will be reviewed periodically in order to take into account changes that may occur in society's attitude/acceptance of appropriate appearance and dress.

3. General Guidelines

- 3.1. School Year Standard: This is the basic standard for the Academic Year, when classes are in session.

Staff or faculty who are issued uniforms are required to wear such clothing unless granted a specific exception by the department management.

- 3.2. Employee I.D. Badges should be worn by all employees in civilian attire. Badges should be clipped to the front of the shirt/dress or hung around the neck, making them clearly visible to anyone passing.
- 3.3. All employees, including contracted and temporary employees, must be properly groomed and appropriately dressed while on campus and when representing the school.
- 3.4. For the purpose of this policy appropriately dressed will be defined as "business dress". Facilities employees who work in environments where contact with dirt or damage to clothing are likely may wear suitable work clothes including work uniforms and safety shoes, as approved by department management.
- 3.5. Hair must be clean, neatly trimmed and maintained sideburns, beards and mustaches. No visible piercing or tattoos.

- 3.6. Casual clothing such as jeans, sweat suits, shorts, tennis shoes muscle shirts, halter tops, and the like are not permitted. All clothing should be loose fitting enough so as not be offensive or revealing to cadets, parents, fellow employees and other visitors.
- 3.7. Dress Standards When Students are not on Campus: NMMI has approved the use of “business casual dress” instead of “business attire” or the military uniform when students are not on campus. Business casual dress still requires that staff and faculty maintain an appearance that is appropriate conducive to our business environment. Shirts, sweaters, and similar items with the NMMI logo are permitted. Casual dress, including examples given in number 3.6 above is not permitted.
- 3.8. Exceptions; Anytime scheduled meetings/events or other work commitments involve the general public, prospective parents or cadets, outside business representatives, Board members or government employees outside the institution, good judgment in choice of attire is expected. This will normally mean wearing business dress attire for that day.
- 3.9. NMMI reserves the right and is required by law, to protect employees safety at all times. This stipulation may require limiting or prohibiting excessive jewelry and/or unusual grooming habits.
- 3.10. Employees arriving at work wearing inappropriate attire may be sent home to change into the appropriate clothing without pay.
- 3.11. Athletic attire is appropriate during school hours only while supervising Athletic/PE/Corps physical activities. Appropriate athletic attire will be neat, modest and in school colors (red, black, gray, white). It includes collared shirts, pants/shorts, athletic shoes, and NMMI logo items. Athletic attire is not appropriate in offices at any time except as posted. The dress codes for the NMMI Godfrey Center, Golf Course, and Cahoon Armory are posted and enforced at the facilities.
- 3.12. As representatives of NMMI, employees are expected to portray a professional image after hours when on the campus.

Corrective or disciplinary action may be taken for repeated violations and a record will be kept in the employee’s personnel file.

5.03 PROTECTION OF CONFIDENTIAL INFORMATION

*Subject to Change Without Notice
Authorized by NMMI Regents' Policy 9
"Responsibility of the President/Superintendent of NMMI"*

New Mexico Military Institute employees are privy to a variety of confidential information and records regarding NMMI cadets, parents/guardians, employees, and the school itself. The proper use of this type of information is to enable sound decisions to be made by NMMI personnel and to enable NMMI to comply with applicable policies and state and federal laws.

Confidential information includes, but is not limited to cadet personal, academic, medical, financial, and disciplinary records, employee personnel/payroll records, and parental records.

Under no circumstances will confidential information be made available for one's own or anyone else's personal benefit. To do so, violates both state and federal statutes and NMMI policies. Confidential records and information must be safeguarded at all times and should not be removed from the NMMI campus unless specifically approved by the appropriate NMMI office, i.e., President/ Superintendent. Employees are reminded that confidential information or records may be stored on laptops or hard drives and failure to ensure the safety and security of the computer could result in the loss of confidential information. The employee is expected to take all necessary safeguards to ensure that such confidential information is not lost, misplaced, or stolen.

The general rule is that confidential information cannot be divulged to anyone outside of NMMI and can be divulged only to NMMI employees with a genuine "need to know".

No financial or other information regarding NMMI or any of its activities that could reasonably be expected to affect NMMI's position in the general community is to be related to any persons not employed by NMMI until it has been published or otherwise made available to the general public in accordance with NMMI policies and state statutes.

5.04 DRUG AND ALCOHOL POLICY

*Subject to Change Without Notice
Authorized by NMMI Regents' 9
"Responsibility of the President/Superintendent of NMMI"*

1. Drug Policy

No employee of NMMI shall distribute, possess or use on or in the workplace any proscribed drug, or chemical substance.

Drug or chemical substance means any substance used for mind-altering effects, including but not limited to narcotics, marijuana, cocaine, LSD, aerosols, butane, any over-the-counter drugs and any prescription drug not prescribed by a physician or not taken as prescribed.

1.1. "Workplace" is defined to mean the site for the performance of work done at New Mexico Military Institute. That includes any school building or any school property; any school-owned or school-approved vehicle used to transport students or personnel of the New Mexico Military Institute to and from school or school activities; off-school property during any school-sponsored or school-approved activity, event or function, such as a field trip or athletic event, where students are under the jurisdiction of the New Mexico Military Institute. NMMI private residences and school-sponsored receptions in the private residences will be exempt from this policy.

1.2. Violation of Policy - As a condition of employment at New Mexico Military Institute, each employee shall abide by the terms of this policy. Any employee who violates the terms of this policy shall be subject to termination.

2. Alcohol Policy

No employee of NMMI shall distribute, possess or use on or in the workplace any alcoholic beverage.

2.1. "Workplace" is defined to mean the site for the performance of work done at New Mexico Military Institute. That includes any school building or any school property; any school-owned or school-approved vehicle used to transport students or personnel of the New Mexico Military Institute to and from school or school activities; off-school property during any school-sponsored or school-approved activity, event or function, such as a field trip or athletic event, where students are under the jurisdiction of the New Mexico Military Institute. NMMI private residences and school-sponsored receptions in the private residences will be exempt from this policy.

2.2. Violation of Policy - As a condition of employment at the NMMI, each employee shall abide by the terms of this policy. Any employee who violates the terms of this policy shall be subject to termination.

5.05
**DRUG FREE WORKPLACE, DRUG FREE SCHOOL,
AND COMMUNITIES ACT AND
DRUG FREE WORKFORCE**

*Subject to Change Without Notice
Authorized by NMMI Regents' Policy 9
"Responsibility of the President/Superintendent of NMMI"*

1. General

1.1. Standards of Conduct

NMMI strives to maintain a safe and productive environment free from the influence of illicit drugs and unlawful use of alcohol. The unlawful possession, use, or distribution of illicit drugs and alcohol on its property or as part of any of its activities is prohibited and a violation of NMMI policy. NMMI property is defined as all lands and buildings under the control of the Board of Regents of NMMI. Employees and cadets who violate this prohibition will be subject to appropriate disciplinary action, which may include termination of employment or expulsion from NMMI. It is also a federal requirement and an NMMI policy that, as a condition of employment, in any federal grant, each employee who is engaged in the performance of a federal grant will notify his/ her immediate supervisor within 5 days after conviction of a criminal drug offense occurring in the workplace. Supervisors will notify the Chief Financial Officer, through appropriate channel of any notifications received.

1.2. Available Drug or Alcohol Counseling, Treatment Rehabilitation, and Re-entry Program.

Any employee or cadet who may have a drug or alcohol problem is encouraged to obtain confidential and voluntary counseling and/or treatment. Counseling and referral services are available on campus. When an employee or cadet requires extended treatment and rehabilitation for a drug or alcohol problem, the counseling services on campus will assist with referrals to an appropriate treatment program. Several support groups are also available, including Alcoholics Anonymous, AL-ANON, Narcotics Anonymous, and Co-Dependents Anonymous.

Supervisors referring employees to treatment for substance abuse should participate in the process of transition when the employee returns to the workforce. Employee privacy is protected when she/he has voluntarily obtained counseling on a self-referral basis. The supervisor is advised to contact the counselor when the employee's treatment is ended. At the time the employee returns to work, a meeting will be arranged with the employee, and

the employee's immediate supervisor. In this meeting, the supervisor should discuss what is expected of the employee in terms of job performance.

Any cadet who has been suspended for alcohol violations and who has evidence of successful rehabilitation may petition for re-admission to NMMI upon recommendation from relevant psychological or psychiatric professionals. Cadets are encouraged to voluntarily seek treatment for drug or alcohol violations before disciplinary action has been initiated. Cadets who are admitted to NMMI after rehabilitation may be assessed and receive after-care counseling at the Cadet Counseling Center or be referred to an appropriate community resource.

1.3. Drug-Free Workplace Policy

NMMI is committed to maintaining a drug-free workplace in accordance with the requirements of the Drug-Free Workplace Act of 1998.

No employee of NMMI shall unlawfully manufacture, distribute, dispense, possess or use on or in the work place any narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana or any other controlled substance, as defined by regulation at 21 CFE 1300.11 through 1300.15, or as defined in schedules I through V of the New Mexico Controlled Substances Act, Section 30-31-1, et seq., N.M.S.A., 1978.

“Workplace” is defined to mean the site for the performance of work done at NMMI. That includes any school building or any school premises; any school-owned vehicle or any other school-approved vehicle used to transport students or personnel of NMMI to and from school or school activities; off-school property during any school-sponsored or school-approved activity, event or function, such as a field trip or athletic event when students are under the jurisdiction of NMMI.

Confidential counseling is available to NMMI employees at the Cadet Counseling Center on a space-available basis. Cadets will receive priority.

As a condition of employment in any federal grant, each employee who is engaged in performance of a federal grant, must notify his/her supervisor of his or her conviction of any criminal drug statute for a violation occurring in the workplace as defined above, no later than five (5) days after such conviction.

As a condition of employment at NMMI, each employee shall abide by the terms of this policy. Any employee who violates the terms of this policy shall be terminated.

5.06 TOBACCO POLICY

*Subject to Change Without Notice
Authorized by NMMI Regents' Policy 9
"Responsibility of the President/Superintendent of NMMI"*

1. General

The State of New Mexico enacted legislation-requiring employers to adopt smoking policies that would protect the health and comfort of non-smokers.

1.1. The NMMI Campus is declared a "Tobacco Free Campus." The NMMI Campus is within the area bounded by 19th Street on the north, Kentucky Street on the west, College Avenue on the south and Main Street to the east. Included are the NMMI athletic fields, the baseball facility, soccer fields, amphitheater and the Wool Bowl. Use of tobacco products within these boundaries is considered a breach of the tobacco policy. Efforts to circumvent the policy and use of tobacco on the campus within sight of cadets provide not only poor example but is in violation of the NMMI policies and state law.

1.1.1. Staff and faculty will not use tobacco products while on campus

1.1.2. Tobacco and smokeless tobacco products, smoking equipment, e.g., pipes, oil vaporizing pens, ashtrays, cigarette holders, etc. are not to be displayed in the work area or on the campus.

This policy applies to all employees, contractors and guests, and will be strictly enforced.

5.07
CHILDREN AND OTHER NON-EMPLOYEES
IN NMMI WORKPLACES

Subject to Change Without Notice
Authorized by NMMI Regents' Policy 9
“Responsibility of the President/Superintendent of NMMI”

1. General

The following regulations have been established and will be enforced by the Vice Presidents, associate dean, department heads, and administrative supervisors/Directors to ensure that an appropriate academic/work environment is maintained.

- 1.1. An adult must closely supervise children visiting campus at all times.
- 1.2. Children and other visitors will be prohibited from entering dangerous settings, such as labs and equipment rooms, without the approval of the administrative supervisor.
- 1.3. Children may not attend a class in session without the prior approval of the class instructor. Children under the care of the instructor may not attend class without the prior approval of the immediate supervisor.
- 1.4. Children may, on rare occasions and with the approval of the supervisor, accompany a parent to the workplace. However, the expectation is that parents will make alternate arrangements for the care of their children during normal working hours.
- 1.5. Children taking part in programs and/or special events on campus are expected to abide by the rules and regulations established by the program or event sponsors as well as the normal working regulations of the campus.

5.08 PUBLIC/POLITICAL AFFAIRS PARTICIPATION

*Subject to Change Without Notice
Authorized by Regents' Policy 9
"Responsibility of the President/Superintendent of NMMI"*

1. General

The policy of the Board of Regents is that faculty and staff have the same citizens' rights as other people. However, employees seeking elective office or serving in an elective office must not allow campaign and service activities to interfere with NMMI responsibilities. NMMI employees may run for the state legislature. However, under state law, any NMMI employee who is elected to the legislature would be required to resign his or her position with NMMI, or if approved, take a leave of absence without pay during the term of such office. Any possible conflict of interest shall be reported by the employee or by any other concerned employee to the administration through the appropriate channels. Unresolved issues shall be referred to the President/Superintendent. It shall be the responsibility of the employee to report his/her appointment or election to a public body, along with any conflict of interest situations. Such reports shall be sent to the President /Superintendent's office. Written notification shall include the type of employment or type of office, the commencing and terminating dates or period of service, and, when applicable, the nature of the conflict of interest situation.

5.09 PARKING AND TRAFFIC REGULATIONS

*Subject to Change Without Notice
Authorized by NMMI Regents' Policy 9
"Responsibility of the President/Superintendent of NMMI"*

1. Vehicle Regulations

1.1. General

The campus speed limit is 10 mph. All employees parking on campus are required to register their vehicles with the NMMI Police Department and display a current parking decal as prescribed. The charge for a parking decal will be established by the President/Superintendent upon appropriate recommendation of the Chief of Police through the Commandant of Cadets.

No person will park a vehicle on the campus streets where the curbing is marked in Yellow or Red or where a "NO PARKING" sign is posted. Cadets who have or bring a vehicle to the Roswell area will park on campus and abide by instructions outlined in the Cadet Blue Book.

1.2. Authority to Remove and Impound Vehicles

NMMI Police Officers have the authority to remove and impound abandoned vehicles or any vehicle found on the campus without a current parking decal, with an unauthorized parking decal, altered parking decal, without license plates, with expired license plates or parked in such a manner as to constitute a serious hazard to vehicular or pedestrian traffic or to the movement or operation of emergency equipment. The owner will be responsible for cost involved in removing, impounding and storing of such a vehicle as prescribed in Article 5 of New Mexico State Statutes Annotated 29-5-1.

1.3. Use of Parking Lots

1.3.1. All faculty, staff, cadets and visitors will use parking lots, not campus streets. There are two on-campus parking lots for first come/first serve use located by McClure Hall and Dow Hall. Additional parking is across Main Street at the Baseball Complex and across College Blvd. at the corner of Richardson and College streets. RV's are not permitted on the campus streets or on-campus parking lots but visitor's RV's may use the parking lot at the Baseball Complex. Parking in front of Lusk Hall, Chapel, and other parking areas specifically marked, are reserved for visitors only, and not intended for employee use.

1.3.2. Long Term Parking (in excess of 1 week) is not permitted unless the vehicle has been left for required duty purposes. If the individual is required to leave their vehicle while on authorized duty/travel for NMMI or the U.S. Army, the owner of the vehicle must notify the NMMI Chief of Police, include the vehicle license number, and the NMMI parking tag number and must park the vehicle in the northeast portion of the Dow Hall lot.

1.4. Traffic Citations

Traffic citations will be issued for any violation of the Regulations of the Uniform Traffic Act, as follows:

1.4.1. Parking

- On a sidewalk
- In front of a driveway
- Within an intersection
- Within fifteen (15) feet of a fire hydrant
- On a crosswalk
- At any place where official signs prohibit parking
- Outside of designated zone
- Outside the lines of a parking space
- In a manner which obstructs the movement or parking of vehicles
- At the entrance of a parking lot
- Blocking a doorway
- Parking in visitor areas, as identified in Para 1.3.1.

1.4.2. Failure to display proper registration permit or current parking decal

1.4.3. Speeding

1.4.4. Traveling in the wrong direction on a one-way street

Staff, faculty and cadets cited by the NMMI Campus Police Department will pay their fines to the Business Office within the time specified. Unpaid citations will be forwarded for court action.

2. Bicycle Regulations

2.1. Generally all employees parking on campus are required to register their bicycle with the NMMI Police Department and display a current parking decal as prescribed. There is no charge for a bicycle parking decal. A person's bicycle is the owner's responsibility. This responsibility includes the safe handling of the bike, operating and parking it in accordance with regulations in such a way as to not constitute a hazard to persons or property. NMMI assumes no responsibility for damage or any loss while the bicycle is operated or parked on campus.

2.2. Bicycles will be parked in provided bicycle racks. Bicycles should be locked to the rack.

5.10 DISHONEST OR FRAUDULENT ACTIVITIES

*Subject to Change Without Notice
Authorized by Regents' Policy 9
"Responsibility of the President/Superintendent of NMMI"*

1. General

NMMI must identify and promptly investigate any possibility of dishonest or fraudulent activities in the handling of NMMI money, documents, equipment, and any other NMMI resource or asset involving cadets, faculty, staff, vendors, agencies, or unknown parties. All employees are responsible for reporting any possible dishonest or fraudulent activity.

An employee found to have committed a dishonest or fraudulent act in relation to NMMI's financial affairs is subject to disciplinary action by NMMI and investigation by law enforcement agencies when warranted. Described herein are the steps to be taken when fraud, misappropriation, and similar dishonest activities are suspected. This policy also includes the procedures to follow in accounting for any missing funds, restitution, and recoveries.

2. Scope

Dishonest or fraudulent activities include the following:

- 2.1. Forgery or alteration of documents (transcripts, checks, promissory notes, time sheets, independent contractor agreements, purchase orders, budgets, etc.).
- 2.2. Misrepresentation of information on documents.
- 2.3. Misappropriation of funds, securities, supplies, or any other asset (including furniture, fixtures, or equipment).
- 2.4. Improprieties in the handling or reporting of money transactions.
- 2.5. Authorizing or receiving payments for goods not received or services not performed.
- 2.6. Authorizing or receiving payments for hours not worked.
- 2.7. Any apparent violation of federal, state, or local laws.
- 2.8. Any similar or related activity.

3. Supervisor Responsibility

Supervisors are responsible for detecting dishonest or fraudulent activities in their areas of responsibility. Each manager should be familiar with the types of improprieties that might occur in his/her area and be alert for any indication that improper activities, misappropriation, or dishonest activity is or was in existence in his /her area. When an improper activity is detected or suspected, supervisors should immediately contact the NMMI Campus Police if the situation warrants such action (for example, obvious theft has taken place, security is at risk, or immediate recovery is possible). In addition,

supervisors must immediately contact Chief Financial Officer and the appropriate Vice President/Director who will contact the NMMI Internal Auditor.

Supervisors should not attempt to conduct individual investigations, interviews, or interrogations to determine if a suspected activity is improper. The Internal Auditor will conduct an investigation of any suspected dishonest or fraudulent activity working with internal or external departments, such as NMMI’s Legal Advisor, Chief Financial Officer and law enforcement agencies. However, supervisors are responsible for taking appropriate corrective actions to ensure adequate controls exist to prevent continued occurrences of such improper activities.

Supervisors will support NMMI’s responsibilities and will cooperate with the Internal Auditor and law enforcement agencies in the detection, reporting, and investigation of criminal acts, including prosecution of offenders. The Internal Auditor is to have full and unrestricted access to all necessary records and personnel. All NMMI furniture and contents, including desks, are open to inspection when there is a reasonable suspicion of a dishonest or fraudulent activity, which makes such inspection appropriate; there is no assumption of privacy. Every effort should be made to effect recovery of NMMI losses.

3.1. Great care must be taken in dealing with suspected dishonest or fraudulent activities to avoid the following:

- 3.1.1. Making incorrect accusations.
- 3.1.2. Alerting suspected individuals that an investigation is under way.
- 3.1.3. Violating the employee’s right to due process.
- 3.1.4. Making statements that could lead to claims of false accusation or other offenses.

3.2. Responsibilities of the supervisor in handling dishonest or fraudulent activities include the following:

- 3.2.1. Do not contact the suspected individual to determine facts or demand restitution. Under no circumstances should there be any reference to “what you did,” “the crime,” “the fraud,” “the forgery,” “the misappropriation,” etc.
- 3.2.2. Take appropriate disciplinary action after consulting with the Chief Financial Officer.
- 3.2.3. Do not discuss the case, facts, suspicions, or allegations with anyone outside NMMI, unless specifically directed to do so by the NMMI Legal Advisor or the Internal Auditor.
- 3.2.4. Do not discuss the case with anyone inside NMMI other than employees who have a “need to know,” the Internal Auditor, the Legal Advisor, the Chief Financial Officer and the NMMI Police Department.
- 3.2.5. Direct all inquiries from the suspected individual, his/ her representative, or his/her attorney to the Internal Auditor. Direct all

inquiries from the media to the NMMI Marketing Director. Proper response to such an inquiry should be, “I’m not at liberty to discuss this matter.”

4. Investigation

The Internal Auditor will conduct an investigation of any situation involving possible impropriety in financial matters pertaining to NMMI. The Internal Auditor will make inquiries to the extent necessary to determine whether the allegation has substance. Investigating, documenting, and reporting dishonest or fraudulent activities provide the following:

- 4.1. A sound foundation for the protection of the innocent.
- 4.2. The removal of wrongdoers from NMMI.
- 4.3. Appropriate judicial action when warranted by the facts.
- 4.4. Basis for risk management claims and civil litigation seeking recovery.
- 4.5. If warranted, an investigation will be conducted. This entails expeditious action and detailed analysis of available financial records. The audit investigation requires the full cooperation of the relevant department’s personnel. The Internal Auditor will proceed as follows if evidence is uncovered showing possible dishonest or fraudulent activities:
 - 4.5.1. The Internal Auditor will advise supervisors to meet with the Chief Financial Officer to determine if any disciplinary action should be taken.
 - 4.5.2. The Internal Auditor will discuss findings with management and cognizant administrators.
 - 4.5.3. The Internal Auditor will notify the President/Superintendent and the Legal Advisor. The Internal Auditor will also notify the Board of Regents through the President/Superintendent, if the investigation is a subject of high public interest or if the amount involved is excessive.
 - 4.5.4. If illegal activity appears to have occurred, the findings will be reported to the appropriate audit and law enforcement agencies. This will be coordinated with the NMMI Legal Advisor and NMMI administrators.
 - 4.5.5. The Internal Auditor will notify the State Auditor immediately in writing if State Auditor rules apply.
 - 4.5.6. The Internal Auditor will coordinate the notification of insurers and the filing of claims with NMMI Property Management.

5. Accounting for Loss, Restitution, and Recovery

The department incurring the loss from a dishonest or fraudulent act will suffer the loss until the monies can be recovered through insurance or restitution. The NMMI Business Office will set up an account receivable for the amount owed NMMI. Due to the uncertainty of collection, an allowance for doubtful accounts will be credited in an amount equal to the account receivable. At fiscal year end, the allowance account will be adjusted by the amount collected and the department account will be credited accordingly.

6. Cost of Recovering Funds

There is no special fund to cover the costs of recovery, such as hiring special investigators or outside legal counsel. These expenses will be allocated from existing budgeted fund.

7. Whistleblower Protection

NMMI strongly encourages all NMMI employees, acting in good faith, to report any suspected misconduct that may be taking place at NMMI. An employee who interferes with or tries to interfere with the right of another employee reporting suspected dishonest or fraudulent activities (misconduct) is subject to disciplinary action, up to and including dismissal. NMMI is committed to protecting employees who report suspected misconduct in accordance with the Whistleblower Protection Act.

If an employee believes that retaliation or interference was threatened, attempted, or occurred, he or she may file a complaint with the Internal Audit Department. Employees reporting suspected interference with or suspected retaliation for reporting suspected misconduct by the Internal Audit Department may file a report with the President/Superintendent’s Office. An employee may file a retaliation complaint only if he or she has previously reported suspected misconduct.

Retaliation is any adverse action taken against an employee who has reported suspected misconduct when business related reasons do not exist for the action or the action is outside of regular practice. Some examples of retaliation are:

- Giving unwarranted negative performance evaluations to the reporting employee.
- Transferring the reporting employee, without legitimate business justification.
- Reprimanding the reporting employee without legitimate business justification.
- Taking adverse salary actions against the reporting employee, without legitimate business justification.
- Suspending, demoting, or dismissing the reporting employee, without legitimate business justification.
- Creating a hostile work environment for the reporting employee.

Reporting suspected misconduct does not exempt an employee from legitimate personnel action taken during the normal course of business

5.11 CODE OF CONDUCT

*Subject to Change Without Notice
Authorized by Regents' Policy 9
"Responsibility of the President/Superintendent of NMMI"*

1. General

The following Code of Conduct is applicable to all employees of NMMI and all-independent contractors and consultants performing services for NMMI.

1.1. Business Ethics

Employees of NMMI and independent contractors and consultants performing services for NMMI shall maintain the highest standards of business ethics in transactions with NMMI, state, federal, and local governments and the general public.

1.2. Outside Activities

Employees of NMMI and independent contractors and consultants performing services for NMMI are expected to perform duties faithfully and efficiently and not give rise to suspicion of improper conflict with interests of NMMI or any agency of the state government.

1.3. Gratuities

Employees of NMMI and independent contractors and consultants performing services for NMMI shall not accept any favor or gratuity from any person, firm, or corporation which is engaged in or attempting to do business with NMMI or any agency of state, or local governments which might affect the employee's judgment in the impartial performance of duties.

5.12 CAMPUS VIOLENCE

*Subject to Change Without Notice
Authorized by Regents' Policy 9
"Responsibility of the President/Superintendent of NMMI"*

1. General

Any acts or threatened acts of violence will not be tolerated. Anyone engaging in such behavior will be subject to discipline, up to and including dismissal, and may also be personally subject to other civil or criminal liabilities. This policy is not intended to supersede federal, state, or local laws, rulings, and/or regulations.

All threats and violent behaviors should be taken seriously. Any situation that poses an immediate danger to self or others must be reported to Campus Police. Assaults or threats of physical harm that require immediate police attention should be reported to the Police Department by dialing 911. An employee who is the complainant of, a witness to, or has knowledge of violent behavior of any of the types listed in Section 2. below, or who has reason to believe that violent behavior may occur at, or in connection with NMMI activities, must report the situation or incident promptly to his/her supervisor. If the employee's supervisor is involved in the violent behavior, the employee shall report the behavior to the supervisor's immediate supervisor or Campus Police if there is immediate danger to self or others.

2. Confidentiality

NMMI will treat reports about violence or potential violence as confidential to the extent that circumstances permit. An employee reporting violent or potentially violent behavior is protected from retaliation.

3. Violent Behavior

- 3.1. Violent behavior includes verbal, written, physical, electronic, or non-verbal threats or other behavior that would constitute a threat of violence or cause a reasonable person to be fearful.
- 3.2. Violent behavior includes physical acts against persons, NMMI property, or property belonging to others that would constitute a threat of violence or cause a reasonable person to be fearful.
- 3.3. Violent behavior includes restraining an individual or interfering with someone's free movement.
- 3.4. Violent behavior includes the possession or use on NMMI property of firearms, ammunition, or weapons of any kind, unless authorized for law enforcement personnel by NMMI Chief of Police. This also includes brandishing any object that could reasonably be perceived as a weapon.
- 3.5. Violent behavior includes the use or possession on NMMI property of dangerous substances or materials, explosives, or incendiary devices, unless used for NMMI business, such as research, and specifically authorized in advance.

5.13 ON-CAMPUS SALES AND SOLICITATIONS

*Subject to Change Without Notice
Authorized by NMMI Regents' Policy 9
"Responsibility of the President/Superintendent of NMMI"*

1. General

The Office of the Chief Financial Officer should be contacted for additional information.

2. Solicitation Policy for Non-NMMI Organizations or Individuals

2.1. Commercial Advertising, Promotion, and/or Solicitation

2.1.1. Commercial advertising, promotion, and/or solicitation through printed material (flyers, posters, promotional material) by off-campus organizations or in person are not permitted on NMMI property except through established media outlets (radio, TV, NMMI publications, etc.) when such is included in the primary media performance format and under other limited approval circumstances. Advertising or solicitation through NMMI media outlets, cadet newspaper, radio, television, NMMI publications, etc., is permitted when done in accordance with policy governing such outlets.

2.1.2. In-person solicitation may be permitted on campus when a solicitor receives a personal invitation from an individual to meet on a private basis. However, individuals (cadets or NMMI employees) may not extend invitations to solicitors to meet with a group for the purposes of soliciting without prior approval from the Chief Financial Officer.

2.2. In-Person Solicitation To NMMI Employees

In-person solicitation to NMMI employees by commercial representatives on matters pertaining to official NMMI operations is not restricted and is considered a necessary activity to the administration of NMMI.

2.3. Sales And Solicitation Of Products On Campus

Sales and solicitation of products on campus by non-NMMI commercial vendors, when sponsored by a recognized NMMI organization or administrative unit, may be permitted under limited circumstances when such activity is related to the purposes and goals of the organization and is not in conflict or competition with other NMMI operations or the purpose and goals of NMMI. In cases affecting cadets, prior approval shall be required from the Commandant of Cadets. For sales and solicitation to NMMI employees, prior approval shall be required from the Chief Financial Officer.

3. Food Service Sales/Solicitation/Acquisition

The food service company under contract with NMMI does retain exclusive right to food service operations on this campus. However, clarification of this right is necessary in view of the many activities that involve food products and that may or may not conflict with contractual obligations of NMMI to the company. The following policies outline conditions under which cadet, staff, or faculty activities may involve food and beverage services.

- 3.1. No off-campus firm or agency can be contracted to provide or cater food or beverage services to cadets, staff, or administrative groups on NMMI property where the NMMI's dining services provides food service.
Exceptions may be granted when the contract operator couldn't provide services desired or where the NMMI and the contractor waive their rights. Waivers shall be in writing and approved by the dining services director and the Chief Financial Officer.
- 3.2. Cadet groups and NMMI units may not secure prepared food and beverage products from off-campus for serving on campus. Waivers may be granted by the Chief Financial Officer under the following conditions:
 - 3.2.1. When products are to be served exclusively to the membership and guests of the sponsoring organization at a private (non-public) organization event
 - 3.2.2. When the food product is not being resold as a fund- raising endeavor
 - 3.2.3. When the product is served at a location or facility where NMMI dining service does not operate a food-serving unit
 - 3.2.4. When the product is served or sold in a manner or un-competition with NMMI. (Sale is construed to be competitive when seller is soliciting the same consumer prospects as those sought or serviced by contractor operations).
- 3.3. Raw food (uncooked) may not be secured for preparation and distribution on the NMMI campus unless approval is secured through the Chief Financial Officer. Health, safety, and liability considerations are applicable.
- 3.4. Cadet groups must secure an activity event approval as well as approval of the NMMI office in charge of the facility or grounds to be used.
- 3.5. Individuals on campus may secure food from those off-campus food operators who provide delivery service (i.e., pizza parlors) on an individual order basis. Delivery policies of facilities shall apply (i.e., JRT).
- 3.6. Organizations granted approval by the Chief Financial Officer to conduct a public event where the preparation, sale, or distribution of food products is conducted by the host organization or by any other unlicensed purveyor, must apply for and be granted a permit from the local office of the Health and Environmental Department, Environmental Improvement Division, in accordance with the New Mexico Food Service Sanitation Act, Chapter 309, Laws of 1977. A copy of the permit must accompany the request. Failure to secure a permit constitutes automatic disapproval of the request.

5.14 OUTSIDE/ADDITIONAL EMPLOYMENT OR RELATED BUSINESS INTEREST – DISCLOSURE STATEMENT

*Subject to Change Without Notice
Authorized by NMMI Regents' Policy 9
"Responsibility of the President/Superintendent of NMMI"*

1. General

Employees of NMMI shall maintain the highest standards of business ethics in transactions with NMMI, with state, federal, and local governments, and with the public. Employees are expected to perform their duties faithfully and efficiently and never to give rise to suspicion of improper conflict with interests of NMMI. Subject to specific NMMI policies, employees must avoid any conflict of interest that may affect their independent judgment in the impartial performance of their duties and may not use their positions to enhance their direct or indirect financial interest or use confidential information learned as employees for anyone's private gain. NMMI employees as well as individuals and firms proposing business transactions with NMMI shall disclose in advance and in writing any direct or indirect financial interest employees may have in a transaction with NMMI. Normally employees with a direct or indirect financial interest in a transaction may not participate in any NMMI decisions related to such transaction, except as specified in this policy. Transactions in which the NMMI President has any financial interest must be approved by the Board of Regents. This policy applies to all employees (faculty and staff) of NMMI, to public and student members of NMMI advisory boards and committees, and other volunteers serving in an official capacity. For the purposes of this policy, the term "employee" shall include all of these individuals. Members of the Board of Regents are governed by Regents' Policy 6.5 ["Regent Code of Conduct and Conflicts of Interest Policy."](#) (Page 16)

All employees shall comply with state conflict of interest laws (including primarily the Governmental Conduct Act, Section 10-16-1. et seq., NMSA 1978, and the Procurement Code, Sections 13-1-25, et seq., NMSA 1978), the requirements of which are incorporated in this policy, as well as other applicable NMMI policies. No employee shall have any direct or indirect financial interest in any contract for building or improving or for furnishing of supplies or services to NMMI unless such contract complies with the provisions of the New Mexico Governmental Conduct Act and the Procurement Code. Any employee who violates this policy or related administrative policies shall be subject to disciplinary action, up to and including dismissal. The purpose of this policy is to set principles for identifying potential conflicts and required procedures for reviewing and addressing those potential conflicts that occur to assure that they do not improperly affect NMMI's educational, research and public service missions, or violate state and federal laws.

2. Conflict of interest

A “conflict of interest” encompasses any situation in which an NMMI employee uses, or is in a position to use, his or her influence and authority within NMMI to advance his or her own personal or financial interest, or financial interests of his or her immediate family.

2.1. Examples of types of conflict of interest situation may include, but are not limited to, the following:

- 2.1.1. Personal gain from unauthorized use of privileged information acquired in connection with the employee’s sponsored activities.
- 2.1.2. Influence upon the negotiation of an employee’s sponsored project agreement between NMMI and organizations with which the employee has consulting or other significant relationship.
- 2.1.3. Acceptance of gratuities or special favors from agencies or organizations with which NMMI does or may conduct business.
- 2.1.4. Extension of gratuities or special favors to employees of agencies or organizations under circumstances, which might reasonably be interpreted as an attempt to influence these employees in conducting their duties.
- 2.1.5. Having significant financial interest in an organization, which provides goods and/or services to NMMI.

2.2. Examples of activities which are clearly permissible include:

- 2.2.1. Acceptance of royalties for published works and patents, or of honoraria for papers.
- 2.2.2. Payments as a consultant to an outside entity, provided that the time commitment does not exceed NMMI policy and that the arrangement does not alter the employee’s commitments to NMMI.
- 2.2.3. Service on boards and committees of outside entities that does not distract from the employee’s obligation to NMMI.

3. Procedures

Each NMMI employee covered by this policy will annually disclose to the Chief Financial Officer all “significant financial interests” held by themselves, their spouse and/or dependent children that are relevant to NMMI. Each NMMI employee covered by this policy will also annually disclose any areas of involvement that may be considered as a “conflict of interest” as defined above.

4. Review of Disclosure Statement

4.1. The Chief Financial Officer shall review all disclosure statements and decide that: (a) there is no potential conflict of interest, or (b) there was a conflict of interest which has been resolved according to one or more of the possible remedies described below (see Section 5), or (c) there is a conflict of interest which has not been resolved. The Chief Financial Officer may seek the advice of additional individuals under conditions of confidentiality to reach a final

decision. The Chief Financial Officer must find either (a) or (b) above prior to acceptance of any government-sponsored award or aid. Care will be exercised at all times to ensure confidentiality and to protect the safety and privacy of persons involved in the review.

- 4.2. If the Chief Financial Officer determines that there is a conflict of interest, the appropriate Vice President or Director will be notified, and acceptance of any awards or aid may be delayed. The Chief Financial Officer will work with appropriate personnel to find a remedy for the potential conflict of interest. If the conflict of interest cannot be resolved as described below, the appropriate Vice President or director will be notified by the Chief Financial Officer.

5. Remedies for Conflict of Interest

If a conflict of interest is established, the Chief Financial Officer shall help resolve the conflict. The Chief Financial Officer may designate other NMMI officials to assist in this process. Remedies may include, but are not limited to:

- 5.1. The key person having the conflict of interest may remove conflicts by relinquishing either (a.) responsibility in the project, or (b.) the matter causing the conflict (e.g., holding position or title, financial interest, conflicting support, honoraria, consultation, etc.)
- 5.2. The Chief Financial Officer may determine that even though there is a conflict of interest, an exception should be allowed and a waiver may be issued by the Chief Financial Officer. This may occur when the conflict is such that the individual involved cannot materially influence the direction of the project or the interest the key person holds is inconsequential enough as to not pose a risk to NMMI.
- 5.3. The Chief Financial Officer may elect to: (a) accept the sponsored project; (b) not accept the sponsored project; or (c) accept the sponsored project subject to certain conditions (e.g., monitoring of research by independent reviewers, public disclosure of significant financial interest, modification of research plan, disqualification from participation in all or part of the sponsored projects, divestiture of significant financial interest, severance of relationships that create actual or potential conflicts).
- 5.4. Appeal of this decision may be made to the President/Superintendent who will consult with the Chief Financial Officer and other applicable personnel before making a final determination (within thirty days of the appeal) as to the action to be taken. In all cases, resolution of the actual or apparent conflict of interest will be achieved before NMMI accepts government-sponsored awards or aid.

6. Records

Disclosure forms and records of all further actions related to such disclosures will be maintained by the Chief Financial Officer for three years following termination of the relevant award, aid, or any subsequent action relating to that award or aid. All disclosures and related documentation are considered confidential, and only those persons involved in the implementation of this policy will have access to such records.

5.15 POLITICAL CAMPAIGN ACTIVITY ON CAMPUS

*Subject to Change Without Notice
Authorized by Regents' Policy 9
"Responsibility of the President/Superintendent of NMMI"*

1. General

It is the policy of New Mexico Military Institute not to contribute money, property or services to any government official, political party or candidate whether local, state or federal.

2. Use of NMMI Facilities

NMMI is prohibited from offering or allowing the use of its facilities, equipment and personnel in connection with any federal, state or local election/campaign.

3. NMMI Representation

Employees of NMMI are encouraged to engage in any governmental, regulatory and elective process in which they are interested. This participation may be on an individual basis, group basis or as a member of a political action committee. Since NMMI is without preference as to political parties, any employee must act only on his/her behalf and not give any representation that she/he represents anyone other than himself/herself. However, such activity, like any other personal, non-official undertaking must be done on the employee's own time and should not interfere with NMMI duties. Employees may not:

- Campaign during work hours.
- Use NMMI supplies or equipment for campaign purposes.
- Represent their political views or the views of any candidate as being those of the NMMI.
- Use employee mailing labels (either home or office addresses) produced by NMMI for distributing campaign materials.

Distribute campaign material through campus mail unless it has been received by a federal post office and is properly postmarked.

5.16 PERSONNEL INFORMATION DISCLOSURE POLICY

*Subject to Change Without Notice
Authorized by NMMI Regents' Policy 9
"Responsibility of the President/Superintendent of NMMI"*

1. General

As described in ["Inspection of Public Records," Policy 4.13 \(Page 50\)](#), NMMI is a public body and has statutory obligations to the citizens of the State under the New Mexico Inspection of Public Records Act ("IPRA"). At the same time, NMMI has an obligation to its employees not to disclose information that is exempt from disclosure under IPRA. This Policy reflects the balance that New Mexico law allows NMMI to strike between the obligations to disclose public records and to withhold from disclosure exempt records or information. This Policy also recognizes that certain information, which is exempt from disclosure under IPRA, nevertheless has legitimate uses for internal NMMI purposes.

2. Disclosure of Information

2.1. Public Information

In accordance with the requirements of IPRA, the following are examples of information about employees that NMMI considers to be public information:

- name
- job title
- organization
- dates of employment
- salary
- job application materials, including resume or curriculum vitae, except for exempt information that will be redacted before production for public inspection as discussed in **Section 2.2.** below.

2.2. Information Exempt from Disclosure

IPRA provides that certain kinds of personnel information, including letters of reference concerning employment and letters or memorandums that are matters of opinion in personnel files, are exempt from public inspection. In addition, NMMI allows employees to direct that certain kinds of information not be made available for public inspection, and routinely withholds from public inspection other kinds of employee information.

Any NMMI employee may direct NMMI's Custodian of Public Records to withhold the following information of that employee's records from disclosure under IPRA:

- Current home address
- Current home telephone number
- Personal (i.e. not used for Institute business) cellular telephone number
- Personal (i.e. not used for Institute business) email address

The policy of NMMI is to withhold or redact from public inspection under IPRA the following employee information, unless the Custodian, determines that disclosure is required by law:

- Personnel evaluations
- Opinions regarding whether a person would be re-hired or regarding why an applicant was not hired
- Social Security number
- Personal financial account numbers
- Professionals' Licensure numbers, including medical professionals' DEA and BNDD numbers

Information that is exempt from public disclosure as provided in this section may nevertheless be used by NMMI as permitted by law, such as to communicate with the Internal Revenue Service or other government agencies, or with insurers who require that information.

2.3. Disclosure of Personnel Information Within the Institute

Selected portions of personnel files pertaining to individual NMMI employees, such as performance evaluations and opinions relied upon in the hiring process may be made available to NMMI officials who have a need to know the past performance of such employees. Employees may have access to all information in their own personnel files, including payroll data, performance evaluations, and documentation of disciplinary actions initiated by NMMI.

All references and information obtained in the process of evaluating employees for initial employment at NMMI or for promotion or transfer within NMMI are available to the hiring committee, without redaction, upon request.

2.4. Requests for Income Verification

Requests for income verification will be handled by the NMMI Payroll Department or Human Resources.

SECTION 6: COMPENSATION AND BENEFIT POLICIES



POLICY	POLICY NUMBER
<u>Serious Health/Non-Industrial Injury Sick Leave</u>	6.01
<u>Bank</u>	
<u>Garnishments and Other Wage Withholdings</u>	6.02
<u>Social Security (FICA)</u>	6.03
<u>Uniform For Faculty and Staff</u>	6.04
<u>Military Rank</u>	6.05
<u>Workers Compensation and Work-Related Injuries</u>	6.06
<u>Unemployment Compensation</u>	6.07
<u>Employer Provided Housing</u>	6.08
<u>Staff, Faculty and Individual Awards</u>	6.09
<u>Emeritus Status</u>	6.10
<u>Special Events and Facilities Utilization by NMMI</u>	6.11
<u>Employees</u>	
<u>Retirement</u>	6.12
<u>Group Life and Health Insurance</u>	6.13
<u>Flexible Spending Accounts Program</u>	6.14
<u>Enrollment in Classes</u>	6.15
<u>Discounted Tuition for Dependents</u>	6.16
<u>Interim Assignment Additional Compensation</u>	6.17
<u>Staff Development Program</u>	6.18
<u>Compassionate Leave Donation</u>	6.19

6.01 SERIOUS HEALTH/NON-INDUSTRIAL INJURY SICK LEAVE BANK

*Subject to Change Without Notice
Authorized by NMMI Regents' Policy 9
"Responsibility of the President/Superintendent of NMMI"*

1. Purpose

The purpose is to establish an employee contributed Serious Health/Non-Industrial Injury Sick Leave Bank (Sick Bank) to be used for NMMI employees who have exhausted all their accrued medical and annual leave time.

2. Definitions

- 2.1. A serious health/non-industrial injury is one, which requires either inpatient care or continuing treatment by a health care provider. This term is not intended to cover short-term illness, for which treatment and recovery are very brief, since such illness would generally be covered by regular NMMI sick leave policies.
- 2.2. Health care provider is as defined in the Family and Medical Leave Act of 1993 (P.L. 103-3 February 5, 1993). A health care provider is:
 - 2.2.1. a doctor of medicine or osteopathy who is licensed to practice medicine or surgery by the state in which the doctor practices
 - 2.2.2. any person determined by the state to be capable of providing health care services
- 2.3. Immediate family means a parent, spouse, child or sibling. (Domestic partners of unmarried employees are not included in this category.)
- 2.4. The Sick Bank Administrator is the Human Resources Office. The Wellness Committee will consist of one faculty member appointed by the Faculty Senate, one staff member appointed by the Employee Advisory Committee, and the Human Resources Director or his/her designee.

3. Eligibility

- 3.1. Any NMMI employee in a category in which sick leave is accrued may apply to use sick leave from the Sick Bank subject to the provisions of the program.
- 3.2. The employee must have exhausted all accrued sick leave and annual leave.
- 3.3. The employee must have contributed to the Sick Bank as outlined in 4.4 below in order to apply to use leave from the Sick Bank.
- 3.4. The employee must be in good standing with NMMI, which is determined by his/her continuing contract of employment.

- 3.5. Exclusions from eligibility may include, but are not limited to:
 - 3.5.1. Medical conditions covered by the FMLA but not considered a “Serious Health Condition.”
 - 3.5.2. Illness or injury covered by Worker’s Compensation.

4. Procedures

- 4.1. The Sick Bank does not provide for leave unless and until the employee has exhausted all his/her accrued sick leave and annual leave.
- 4.2. The Sick Bank does not provide for the first 20 days of serious health/non-industrial injury or illness. The first 20 days are the responsibility of the employee. If sick and annual leave have been exhausted further leave will be charged as leave without pay.
- 4.3. An employee may apply to draw a maximum of 90 days per fiscal year from the Sick Bank once all his/her accrued sick leave and annual leave are exhausted and after the first 20 days of injury or illness.
- 4.4. An employee who chooses to contribute accrued sick leave time to the Sick Bank must indicate his/her desire to do so within the first 20 working days of the school year or within the first 20 working days of original employment. Upon such notification, the Chief Financial Officer will automatically transfer one day from the employee to the Sick Bank. Should the number of days in the Sick Bank fall below 250, the Chief Financial Officer will automatically transfer an additional day from each participating employee. In addition, employees may elect to transfer up to an additional 5 days of accrued sick leave to the Sick Bank. No employee may contribute more than a total of 7 days during any fiscal year. To contribute additional leave to the Sick Bank, an employee must submit a written request to the Chief Financial Officer no later than October 1st.
- 4.5. All donations to the Sick Bank are voluntary and are not revocable.
- 4.6. Employees who contribute to the Sick Bank may not designate a specific person to receive their contributions.
- 4.7. Only one withdrawal from the Sick Bank is allowed within each fiscal year unless the maximum of 90 days was not used in the same fiscal year as the request. An employee must have contributed to the Sick Bank in order to apply to use leave from the Sick Bank.
- 4.8. An employee who contributes to the Sick Bank is not required to use leave from the Sick Bank. Employees are not required to pay back any leave granted from the Sick Bank.
- 4.9. Days left in the Sick Bank at the end of the fiscal year will be carried over to the following fiscal year.

5. Withdrawal

- 5.1. An eligible employee may apply to the Chief Financial Officer for permission to withdraw time from the Sick Bank. An employee may petition to use the bank either for himself/herself or for an immediate family member as defined above.
- 5.2. Applications to use the Sick Bank will be processed on a first-come, first-served basis.
- 5.3. All applications must be accompanied by a physician’s statement specifying the nature of the illness/injury and the anticipated duration of the absence. The privacy of all employee applications will be protected as provided by New Mexico law.
- 5.4. Upon receipt of the application, the Chief Financial Officer will convene the Wellness Committee in order to make a determination of approval/disapproval as well as a determination of the amount of time the employee may withdraw from the Sick Bank. The committee is authorized to acquire additional information from immediate supervisors or other health care providers as deemed appropriate. All illnesses are considered on a case by case basis, including illnesses related to alcohol and/or substance abuse.
- 5.5. Upon approval of any withdrawal from the Sick Bank, the Chief Financial Officer shall immediately transfer those sick days to the employee. The Chief Financial Officer will also notify the employee in writing of said approval and the amount of time approved. Sick leave from the Sick Bank shall be treated in the same manner as normally accrued sick leave.
- 5.6. Approval/disapproval of any application shall be made within seven business days from the date of receipt of the application.
- 5.7. In the event of the disapproval of an employee’s application by the Wellness Committee the employee may appeal to the President/Superintendent. The appeal must be in writing and submitted within five business days of the notification of disapproval. The decision of the President/Superintendent will be based on the same information as that presented to the Wellness Committee. The decision of the President/Superintendent is final.

6. Termination of Sick Bank Leave

- 6.1. When an employee using Sick Bank days returns to duty, any unused days revert to the Sick Bank.
- 6.2. When an employee using Sick Bank days terminates employment, any unused days revert to the Sick Bank.
- 6.3. When an employee has received 90 days in any fiscal year from the Sick Bank, the employee may apply for leave without pay as prescribed in the O & P Manual.

6.02 GARNISHMENTS AND OTHER WAGE WITHHOLDINGS

*Subject to Change Without Notice
Authorized by NMMI Regents' Policy 9
"Responsibility of the President/Superintendent of NMMI"*

1. General

NMMI is required by law to withhold portions of an employee's earnings to satisfy an outstanding debt when a court or other legally authorized agency requires such action. The Chief Financial Officer is responsible for administering payroll deductions as required by Notices to Withhold Income for Child Support, Tax Levies, and Writs of Garnishment. Although these documents should be served to the Chief Financial Officer, they are sometimes initially directed to the employee's supervisor. Any department administrator who receives such a document should immediately route it to the Human Resources Office.

Federal and state laws place limitations on the amount of deduction that may be taken and determine the priority of claims to be withheld from an employee's earnings. Nothing in this policy shall impose or limit requirements that may be otherwise imposed by law.

2. Restriction on Discharge

NMMI may not discharge any employee because earnings have been subjected to wage withholdings.

3. Disposable Earnings

Federal and state laws limit the amount of an employee's disposable earnings that may be garnished. An employee's disposable earnings are equal to the employee's earnings minus deductions required by state and federal law. These deductions include Federal and State Income Tax, Social Security Tax (FICA), and ERA retirement contributions.

4. Types of Wage Withholdings

4.1. Child Support

Mandatory deductions are initiated when NMMI receives a Notice to Withhold Income for Child Support issued by the New Mexico Child Support Enforcement Bureau. The Notice may indicate that a new deduction is required or that a prior balance is in arrears. The amount withheld from income for child support usually cannot exceed fifty percent (50%) of the employee's disposable income. Disposable income consists of gross wages less federal, state, and local taxes including Social Security, retirement, and disability contributions. A child support deduction continues as long as the person is employed by NMMI or until the Child Support Enforcement Bureau cancels it. NMMI must discontinue the garnishment deduction if a Notice of Bankruptcy for the employee is received.

4.2. Tax Levies

Mandatory payroll deductions are initiated when NMMI receives a Tax Levy from the Internal Revenue Service (IRS). The employee is notified by the Chief Financial Officer that she/he must complete a Statement of Exemptions and Filing Status within three (3) working days. The amount withheld from earnings for a tax levy is determined by the IRS and set forth in an IRS publication, which is either served with the levy or available from the IRS. A tax levy deduction continues as long as the person is employed by NMMI, until the debt is paid in full, or a Release of Levy is issued by the IRS. NMMI must discontinue the garnishment deduction if a Notice of Bankruptcy for the employee is received.

4.3. Creditor Garnishments

Mandatory payroll deductions are initiated when NMMI receives a Writ of Garnishment issued by the courts to collect a debt from an employee. The Chief Financial Officer prepares an Answer to the Writ within twenty (20) days of receipt, which is received and signed by the Chief Financial Officer. This answer is filed with the court and a copy is sent to the employee. The total amount withheld from income for garnishments cannot exceed the lower of the following:

4.3.1. Twenty-five percent (25%) of the employee’s disposable earnings;

OR

4.3.2. Disposable earnings less the Federal minimum wage times forty-(40) hours per week.

A garnishment continues as long as the person is employed by NMMI or until the debt plus interest is paid in full, or the court issues a release of Writ. NMMI must discontinue the garnishment deduction if a Notice of Bankruptcy for the employee is received.

5. Priority of Payroll Deductions

More than one (1)-mandated deduction may be required for an employee at any given time. Within the maximum allowable withholding amounts defined in Section 3 and 4 herein, any number of deductions may be taken simultaneously in the order of priority listed below.

- 5.1. Taxes (Federal, State, and FICA)
- 5.2. Retirement Contributions
- 5.3. Child Support
- 5.4. Current Amount
- 5.5. Arrears
- 5.6. Garnishment(s)
- 5.7. Tax Levy (a tax levy can take priority over other creditor garnishments if NMMI receives a claim of lien filed by the IRS with the County Clerk)

5.8. Voluntary Deduction (for example, insurance premiums, etc.)

Where voluntary deductions (such as insurance premiums) exceed earnings, the employee must pay the premiums to the Chief Financial Officer on or before the applicable pay date.

6. Notification

When an employee is no longer employed at NMMI, the Payroll Office must notify all agencies or creditors who have filed garnishments or wage withholding orders with NMMI.

6.03 SOCIAL SECURITY (FICA)

*Subject to Change Without Notice
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General

NMMI employees, full-time or part-time, and certain other temporary and part-time employees are covered by Social Security. Payment is made by a semi-monthly payroll deduction at a rate set by law, with a matching contribution by NMMI. (Current rates may be obtained from the Business Office.)

The local Social Security office can supply information concerning specific eligibility requirement benefits.

6.04 UNIFORM FOR FACULTY AND STAFF

*Subject to Change Without Notice
Authorized by NMMI Regents' Policy 9
"Responsibility of the President/Superintendent of NMMI"*

1. General

Pursuant to the laws of the State of New Mexico 21-12-8, for the better government and enforcement of discipline in the New Mexico Military Institute, the Superintendent, Commandant of Cadets, instructors and other professional staff designated as officers shall have such rank and hold office as such during the time they are employed in such capacity and will be allowed to wear the uniform of their rank while when performing duties on campus related to the Corps of Cadets during the academic year.

The appearance of uniforms worn by the faculty and staff will be such as to set a proper example for the Corps of Cadets.

2. Authorized Uniforms

Uniformed employees will wear the uniform prescribed by the Board of Regents. The same rules and regulations provided for commissioned officers of the New Mexico Army National Guard shall serve as a model to uniformed NMMI staff and faculty.

The winter or summer uniform is authorized for wear at the option of the individual.

The President/Superintendent may prescribe the uniform to be worn at special events (e.g., parades, inspection, or other functions). However, until such instances are dictated, individuals may wear the uniform in any acceptable combination, as prescribed by this regulation (e.g., wearing the short sleeve shirt during winter or long sleeve shirt with tie in summer).

2.1. Retired Members of the Armed Forces and Reserves

Retired members of the Armed Forces and members of reserve components, including those retired there from may wear the uniforms and insignia prescribed by their service for personnel of corresponding grade on active duty, but they will, in general, follow the intent of the NMMI Operations and Procedures Manual.

2.2. Authorized Personal Decorations, Badges, Service Ribbons and Combat Patches

Members of the faculty and staff who have served in the Armed Forces and who have authorized personal military decorations, badges, service ribbons and combat patches are encouraged to wear them on the uniform.

In so far as practicable, and when not in conflict with regulations of their respective service, this directive is applicable to members of the Armed Forces on active duty at the NMMI.

2.3. NMMII Insignia on Shoulder Boards

All male and female members of the faculty and staff of NMMI, except active duty personnel, will wear the “NMMI” insignia on the black shoulder board centered above the rank.

3. Attendance at Unofficial Activities Off Campus

Wearing of civilian clothes is preferred for attendance at unofficial activities off campus, (e.g., service club meetings), unless the individual is representing NMMI in an official capacity.

4. Uniform Allowance

Upon initial employment, staff and faculty authorized to wear the uniform will be given an initial issue from the Cadet Store, which should satisfactorily meet required uniform needs.

Each staff and faculty member authorized to wear the uniform will be given an annual allowance for uniform maintenance. The Human Resources Office and Cadet Store will maintain appropriate records for the purchases of each individual and their available balances.

Uniforms and uniform items may be purchased at the Cadet Store or at any military clothing store. Receipts are required for reimbursement of items purchased outside the Cadet Store.

6.05 MILITARY RANK

*Subject to Change Without Notice
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"Responsibility of the President/Superintendent of NMMI"*

1. General

This chapter covers the status of all officer members of the New Mexico Military Institute staff or faculty. In the event of conflict with Federal Law or service regulations, officers of any of the Armed Forces of the United States will comply with the requirements of their respective service. For officers of the staff or faculty appointed by the Board of Regents, this chapter provides guidelines for initial appointments and subsequent promotions.

1.1. Armed Forces commissioned officers

An officer of the staff and faculty who is a retired officer from one of the Armed Forces or an officer holding a current reserve or national guard commission in one of the Armed Forces may wear, and is encouraged to wear, the uniform of his/her service, and the insignia, service medals, and decorations the officer is entitled to as a retired, reserve, or National Guard officer without regard to his/her position at New Mexico Military Institute.

1.2. Staff and faculty officers

Those positions designated by the Board of Regents as officials in the New Mexico Military Institute shall be commissioned as aides-de-camp on the staff of the Governor of the State of New Mexico, with such military rank as the Board of Regents shall prescribe or designate. Authority is delegated to the President/Superintendent or designee to approve all officer appointments. Initial appointments of faculty depend on education and experience.

1.3. Faculty

- Initial appointment as an Instructor/ Counselor I/Librarian I is in the grade of Captain
- Initial appointment or promotion to Assistant Professor/ Counselor II/ Librarian II carries with it the grade of Major
- Initial appointment or promotion to Associate Professor/ Counselor III/ Librarian III carries with it the grade of Lieutenant Colonel
- Promotion to Professor/Counselor IV/Librarian IV carries with it the grade of Colonel.

1.4. Staff

- The President /Superintendent's military rank is determined by the Board of Regents or is kept at his/her rank upon retirement from active duty.
- Senior level staff may be initially appointed in the grade of Lieutenant Colonel or Colonel, depending on qualifications. After appropriate years of service, other senior level staff officers may be recommended for promotion up to the grade of Colonel by their immediate supervisor to the Military Promotion Board.
- Depending upon qualifications, education and areas of responsibility, initial staff appointments will be in the grade of Major with an advanced degree, Captain with a baccalaureate degree or First Lieutenant without a baccalaureate degree. After seven (7) years in grade, their immediate supervisor through their Vice President may recommend staff to the Military Promotion Board for promotion to the next higher grade.

During the last year of service prior to retirement, Vice Presidents may recommend an individual in the grade of Lieutenant Colonel or below to the Military Promotion Board for promotion to the next higher grade for long and faithful service to New Mexico Military Institute. This promotion may be recommended only after the officer has submitted his/her retirement notice in writing.

6.06
WORKERS COMPENSATION
AND WORK-RELATED INJURIES

Subject to Change Without Notice
Authorized by NMMI Regents' Policy 9
"Responsibility of the President/Superintendent of NMMI"

1. General

Pursuant to the laws of the State of New Mexico, Chapter 52, Article 1 NMSA 1978, NMMI provides coverage and certain forms of compensation to employees who incur an injury or illness arising out of and in the course of their employment. An employee may also be covered while traveling on official NMMI business. The NM Workers' Compensation Program administers these compensation payments and covers any person receiving a salary or wage from and acting in the service of NMMI. This policy sets forth NMMI's commitment to prevention of on-the-job accidents; treatment, care, and rehabilitation of an injured employee; and the employee's rights and responsibilities when an on-the-job injury occurs.

1.1. Safe Work Environment

NMMI strives, through various programs, to make the workplace a safe and healthy environment for all persons, including cadets, faculty, staff, and visitors. The key to a safe work environment is the prevention of on-the-job accidents. All share this responsibility, and everyone is encouraged to bring work-related health and safety concerns to their supervisor's attention and/or Facilities Office as soon as possible. Supervisors are encouraged to conduct periodic safety inspections of all work areas under their control. Assistance is available from the Facilities Office. Employees will perform their jobs in a safe manner with concern and care for their safety and the safety of others. Employees who perform their jobs in an unsafe manner or who engage in behavior or activities that endanger the health or safety of themselves or others, are subject to disciplinary action, up to and including dismissal.

1.2. Medical Treatment

All employees at NMMI requiring non-emergency care during normal working hours may utilize the NMMI Marshall Infirmary. The Physician's Assistant may refer such employees to other medical providers, if appropriate.

Emergencies and work-related injuries occurring after hours or on weekends will be treated by the nearest emergency room.

Employees working in New Mexico but outside the Roswell area must obtain approval from the State of New Mexico Risk Management Division before receiving medical care for work-related injuries unless it is an emergency. Emergencies and injuries occurring after hours or on weekends will be treated by the nearest emergency room with follow up the next working day by the third-party administrator.

Medical services should be obtained according to the above procedure in order to be covered by Workers' Compensation. All employees are subject to these procedures. Supervisors are responsible for directing their subordinates to the appropriate medical provider.

2. Reporting Procedures

2.1. Accident Report – Employee Electing Treatment

All work-related accidents and/or illnesses must be reported to the employee's immediate supervisor. The immediate supervisor will notify the Payroll Office or designee, who will ensure that the Department of Risk Management receives an accident report within twenty-four (24) hours from the time the employee's supervisor was informed of the accident.

2.2. Accident Report – Employee Not Electing Treatment

Even if an employee chooses not to receive medical treatment, the employee must complete a Notice of Accident form to preserve his or her rights under Workers' Compensation. The form is available from the Payroll Department located in the Business Office. The employee should complete the form as soon as possible, but no later than fifteen (15) days after the injury occurs. The employee should send the form to the Payroll Department. Failure to meet the fifteen (15) day deadline could jeopardize coverage under the Workers' Compensation Act.

2.3. Medical Bills

Employees should contact the Payroll Office or designee for information on sending bills for medical treatment and related items that resulted from a work-related injury or illness.

2.4. Missed Work

The employee's supervisor must notify the NMMI Payroll Department in writing when an employee misses five (5) or more days of scheduled work due to a work-related injury or illness. The employee is paid for a full day's work on the date of injury without charging the absence to sick leave, regardless of the time of day the injury occurs.

2.5. Wage Compensation

The Workers' Compensation Program provides compensation benefits to an employee for a portion of the time the employee is absent from the job due to an injury or illness covered by the applicable laws. NMMI will carry the employee on sick leave or leave without pay during the period the employee is receiving payment from the Workers' Compensation carrier up to the maximum of six months.

Workers' compensation payments do not begin until the employee has been unable to work for seven (7) calendar days following the date of incident. The employee's pay for the first seven (7) days is charged to sick leave, annual leave, or leave without pay (if the employee does not have sick or annual leave available).

If the period of disablement extends past the twenty-eighth (28th) calendar day, Workers' compensation will then pay the amount allowed by law for the first seven (7) days of the disablement. The equivalent sick and/or annual leave used the first seven days will be returned to the employee's leave account.

2.6. Medical Leave Without Pay

If an employee's sick and annual leave are exhausted, or the employee elects not to use annual leave, the employee will be placed on "Medical Leave Without Pay" due to a work related injury.

2.7. Family and Medical Leave

If an employee experiences a work-related injury or illness, the supervisor shall notify the employee that he or she may qualify to request unpaid FMLA leave. FMLA runs concurrently with Workers' Compensation. The amount of unpaid FMLA leave an employee would be eligible to take will be reduced by time off covered under Workers' Compensation. Employees should refer to the "Family and Medical Leave" Policy.

2.8 Employment

No state employee shall be terminated from employment because of a job-related injury or illness or physical circumstances resulting from a job-related injury or illness unless the state agency has provided advance notice to the risk management division, attention: workers' compensation claims specialist.

Except as provided in paragraphs 4(a) and 4(b) below, vacant positions resulting from work-related injuries or illnesses shall not be filled, except by temporary employment.

3. Return to Work Procedures

In accordance with the NM Workers' Compensation Act, NMMI administers a return to work program for all its employees. An injured or ill employee will be encouraged to return to work as soon as he or she is released by his or her health care provider. When an injury or illness covered by the Workers' Compensation Program involves any lost time, a medical release from the employee's health care provider is required before an employee may return to work. If an employee is only able to return to his or her existing job with restrictions on certain job activities, the return to work is encouraged but must be approved by the employee's health care provider, the appropriate director, or department head, and Human Resources. The supervisors should consult with Human Resources and discuss the restrictions on the Return to Work form to determine if the restrictions can be accommodated.

3.1. Early Return to Work Program

NMMI is committed to an effective program for the treatment, care, and rehabilitation of an injured employee. This program is called the Early Return to Work Program and is administered by the Human Resources. An injured employee will be encouraged to return to work as soon as his or her health care provider releases him or her. If reasonable accommodations can be made to the job in order to allow an injured employee to return to duty and perform his or

her essential functions, such accommodations shall be made. These accommodations are known as “restricted duty.” The employee’s supervisor should work with the employee’s health care provider the appropriate director or the department head and the Human Resources Department to develop these accommodations.

3.2. Americans With Disabilities Act

In certain cases, work-related injury may give rise to a disability covered by the Americans with Disabilities Act, 42, USC 12101. In those instances, reasonable accommodations that allow the employee to perform the essential functions of that job must be made. The employee’s supervisor should work with the employee’s health care provider; the appropriate director or department head and the Human Resources Department.

3.3. Temporary Disability

If a temporary disability prevents an employee from performing essential job duties, the supervisor, in consultation with the health care provider, may temporarily reassign the employee to other duties that do not adversely affect the disability. The reassignment should not affect the employee’s rate of pay. The employee must provide a statement from the health care provider that the employee can perform the reassigned or limited job duties without adverse effect on the temporary disability or the safety of others.

3.4. Unable to Perform Job

If it is determined, after “Maximum Medical Improvement,” that an injured or ill employee is no longer able to perform the essential functions of the job at which the employee was injured or became ill, with or without reasonable accommodations, that employee shall then be placed on the layoff roster. Individuals on the layoff roster receive first priority for vacant positions at NMMI of similar or lower classification for which the employee meets the minimum qualifications. The individual’s health care provider must certify that the individual is medically capable of performing the duties of a job offered as a result of layoff status. NMMI is not required to create a position that does not currently exist or that is not vacant or funded. For reemployment and benefit rights refer to Separation of Employment Policy.

4. Vacant Positions Resulting From Work-Related Injury or Illness

Except as provided in paragraphs (a) and (b) below, vacant positions resulting from work-related injuries or illnesses may be filled only by temporary employees.

- a. A position may be permanently filled if there is documented medical diagnosis or evidence that an employee with a job-related injury or illness has reached Maximum Medical Improvement (MMI) or that the employee’s impairment or condition is permanent and that employee cannot perform the essential functions of the particular job.

- b. A position may be permanently filled if there is a critical need and that need cannot be satisfied with a temporary employee and NMMI has made a good faith effort to do so.

5. Termination of Employee With Work-Related Injury or Illness

An employee with a job-related injury or illness will not be terminated unless advance notice is given to the State Risk Management Division.

6. References

Workers' Compensation Act, NMSA 52-1-1

NMAC 1.6.14.14 "State Loss Control Program:

6.07 UNEMPLOYMENT COMPENSATION

*Subject to Change Without Notice
Authorized by NMMI Regents' Policy 9
"Responsibility of the President/Superintendent of NMMI"*

1. General

NMMI extends unemployment coverage to non-cadet employees in accordance with the New Mexico Unemployment Compensation Act. This coverage is designed to provide benefit payments for a short period to workers whom, through no fault of their own, are unable to obtain gainful employment. NMMI pays the full cost of the coverage as designated by the State of New Mexico.

2. Eligibility

The New Mexico State Department of Labor determines which individuals are eligible for unemployment compensation insurance benefits based on the circumstances of the separation and the provisions of the Unemployment Compensation Act.

3. Procedure

3.1. Departmental Responsibility

Department Chairmen or Supervisors must submit documentation (i.e., letters of resignation, discharge notices, etc.) to the Chief Financial Officer within forty-eight (48) hours of the employee's separation from NMMI. If a department receives any documentation from the New Mexico Department of Labor, those documents should immediately forward the documentation to the Human Resources. The New Mexico Department of Labor allows an employer only five (5) days to respond to an unemployment compensation claim filed by the separated employee.

3.2. Individual's Responsibility

If an individual feels she/he qualifies for benefits, the individual must file a claim with the New Mexico Department of Labor.

6.08 EMPLOYER PROVIDED HOUSING

*Subject to Change Without Notice
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"Responsibility of the President/Superintendent of NMMI"*

1. General

The President /Superintendent or designee determines the availability of NMMI housing and has the final say in the selection and placement of the NMMI employee. Due consideration is given to ensure that each division/ department is treated equitably and the need for accessibility to NMMI events or need to respond to emergencies quickly. In accordance with the provisions of Internal Revenue Service code, section 119(d), NMMI must include the value of qualified campus lodging furnished to an employee on his/her Form W-2 (Wage and Earnings statement) for each taxable year. The yearly value of the lodging provided is based on the value of individuals living in comparable lodging in the Roswell area and is set at the lesser of: (1) five percent of the appraised value of the lodging or (2) the average rent. A period of less than one year will be prorated. The assessed value is subject to change without notice.

2. Qualified Campus Lodging

"Qualified campus lodging" for the purposes of the provisions above is not provided to the employee for the convenience of the employer, and therefore, the employee is not required to accept such lodging as a condition of employment. In cases where the employee is required to accept housing as a condition of employment it will be noted on the employee's annual contract.

3. Employee Responsibility for Taxes

It is understood that the employee is responsible for his/her own Federal and State income taxes and his/her portion of FICA and Retirement costs resulting from the gross income included in earnings (Form W-2). NMMI will pay its share of FICA and Retirement costs on behalf of the employee.

4. Benefits to Employee

Benefits to recipients of employer provided lodging vary, but can include the following:

- 4.1. Rent free housing
- 4.2. Free utilities, repairs and maintenance (some residences receive free yard care)

5. Other Employee Responsibilities

When housing is provided for an employee of NMMI, the employee must agree to the following list of conditions.

- 5.1. Routine care and maintenance of the facility are the responsibility of the employee.
- 5.2. When an employee moves out of housing belonging to NMMI, his/her final paycheck will be withheld pending a timely determination of cleaning costs and/or damage payments and employee waives any right to receive his/her final paycheck within the timeframe specified by state law.
- 5.3. An inventory of furniture and/or appliances will be acknowledged by the employee upon occupancy and verified when the housing is vacated.
- 5.4. Insurance for the employee's personal property is the responsibility of the individual employee and is NOT covered under NMMI insurance through Risk Management Division.
- 5.5. All tenants must abide by the Smoking and Drug and Alcohol Policy.
- 5.6. Property is offered as a residence, and must be accepted AS IS. Any requested work to be completed must be approved by the Director of Facilities. Any work or alteration may be denied at the discretion of the Director of Facilities.

6. Housing Rental Agreement

All employees provided housing are required to sign and familiarize themselves with the Housing Rental Agreement and Contract.

NMMI reserves the right to revoke the privilege to live in NMMI housing at any time.

6.09 STAFF, FACULTY AND INDIVIDUAL AWARDS

*Subject to Change Without Notice
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"Responsibility of the President/Superintendent of NMMI"*

1. General

- 1.1. Staff and Faculty awards are made both for sustained meritorious performance of duty and for specific achievement. All members of the staff and faculty are eligible to receive all awards, but the level of responsibility of an individual, along with the significance of the achievement or accomplishment at that level of responsibility, are considered in determining the level of an award.
- 1.2. NMMI may also designate specific awards for non-uniformed employees, and other individuals or entities that have made singular contributions to the excellence of the institution. Honorees shall have designated themselves by their service or financial contributions to the institution and by their character. Honorees shall have demonstrated the highest degree of personal and professional ethics.

2. Awards

The NMMI Staff and Faculty awards, criteria, description, and prescribed precedence are as follows:

2.1. NMMI Distinguished Service Award

- Criteria: Awarded for sustained superior performance of duty warranting the highest recognition of NMMI.
- Description: N. S. Meyer Ribbon Number 2054
- Precedence – First
- Regent Approval Required

2.2. NMMI Fraternity of Merit Award

- Criteria: Awarded for sustained superior performance of duty and/or exceptional achievement warranting the second highest recognition of NMMI.
- Description: N. S. Meyer Ribbon Number 1365
- Precedence: Second

2.3. NMMI Meritorious Service Award

- Criteria: Sustained superior performance of duty and/or outstanding achievement.
- Description: N. S. Meyer Ribbon Number 2090
- Precedence: Third

2.4. NMMI Commendation Award

- Criteria: Sustained superior performance of duty and/or significant achievement.
- Description: N. S. Meyer Ribbon Number 1193
- Precedence: Fourth

2.5. NMMI Service Ribbon

- Criteria: Awarded for sustained professional performance of duty, considered for award after each five- (5) year period of continuous service at NMMI.
- Description: N. S. Meyer Ribbon Number 1175
- Precedence: Fifth

Each subsequent receipt of the same award will be indicated by a bronze oak leaf cluster (up to four) worn superimposed on the ribbon. A silver oak leaf cluster will be worn to represent five (5) bronze oak leaf clusters.

3. Recommendations for Award

Recommendations for an award may originate from anyone but will be processed through the intended recipient’s supervisory channels to the President/

Superintendent. All recommendations for an award will include the recommended approval or disapproval of the Vice Presidents/Director, as appropriate, to the individual concerned. The Promotion Board reviews all proposed awards and submits its recommendations to the Superintendent. The final decision for the Will Rogers Award, the Regents’ Recognition Award, NMMI Distinguished Service Award, and Honorary Degrees will be made by the Regents.

4. Wearing of New Mexico Military Institute Awards

NMMI awards and ribbons are worn in accordance with Army Regulation 670-1 in order of precedence from the wearer’s right to left in one or more lines either without a space between lines or a 1/8 inch space between lines. No line will contain more than four (4) award ribbons. The award ribbons will be worn as follows:

- 4.1. Male personnel – The award ribbons will be worn immediately above the left breast pocket in as many lines as necessary to fit on the uniform.
- 4.2. Female personnel – The award ribbons will be worn centered on the left side of the uniform coat or jacket, with the bottom line positioned parallel to the top edge of the top button of the uniform.

NMMI awards may be worn with medals and decorations for wear by any of the Armed Forces, but will be worn in precedence below these medals and decorations, including foreign awards.

6.10 EMERITUS STATUS

*Subject to Change Without Notice
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1. General

NMMI provides for the emeritus faculty member the privileges and services generally available to all other faculty members. In furthering this objective, the following policies pertain:

- 1.1 Emeritus status for faculty is based upon two conditions: (1) that the faculty member is eligible for retirement under the New Mexico Educational Retirement Act, (2) that the faculty member is tenured at NMMI.
- 1.2 Individual emeritus faculty shall be listed for life as emeriti in the catalog.
- 1.3 The Institute may employ emeritus faculty as fully as possible within the limits of the Educational Retirement Act for such duties as substitute teaching, advising, and recruiting, if their services are available, requested, and approved. Such employment is not negotiated as part of any retirement agreement.
- 1.4 The following privileges shall be provided by the Institute to emeritus faculty and other retirees with (20) twenty or more years of service:
 - Faculty library services
 - Receipt of general Institute publications.
 - Issuance of permanent identification cards.
 - Cadet Store discount afforded to current employees.
- 1.5 The following privileges shall be provided by the Institute to emeritus faculty and other retirees with (20) twenty or more years of service:
 - Retirees may purchase annual golf membership at faculty/staff rates.

2. L.T. Godfrey Athletic Center

The emeritus faculty member, with 20 (twenty) or more years of service is eligible to use the facilities at the L.T. Godfrey Athletic Center free of charge. This benefit applies to the emeritus faculty members and spouses and does not include extended family members.

This program will be evaluated on a yearly basis to insure NMMI can financially support this privilege for its emeritus faculty members who have provided their services to NMMI for the requisite years.

6.11 SPECIAL EVENTS AND FACILITIES UTILIZATION BY NMMI EMPLOYEES

*Subject to Change Without Notice
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"Responsibility of the President/Superintendent of NMMI"*

1. **General**

The Commandant is responsible for the supervision of all special events; i.e., receptions, private entertainment, cadet troop cookouts, etc., and utilization of facilities by employees.

2. **Dining Facility**

Requests for food services are made on a "Special Events Services" form, however, the electronic version must be used for NMMI functions and must be approved by the Commandant. Each "Special Events Services" form must be completed in its entirety, identifying the function and services requested.

NMMI employees may utilize the dining facility for a nominal fee. Breakfast, lunch and supper tickets are available from the cashier in the Business Office.

3. **L.T. Godfrey Athletic Center**

The Vice President, HPER/Director of Athletics is responsible for management, operation and supervision of events conducted in the L.T. Godfrey Athletic Center. Full-time employees, their spouses and dependent children are allowed to use the L.T. Godfrey Athletic Center facilities free of charge when utilization does not interfere with cadet functions. Cadet utilization takes priority.

Retirees from NMMI, the NMMI Foundation, Inc., and the NMMI Alumni Association, Inc., with 20 (twenty) or more years of service are eligible to use the facilities at the L.T. Godfrey Athletic Center free of charge.

4. **Auxiliary Enterprises**

Various auxiliary enterprises are available for use by NMMI employees when utilization does not interfere with cadet functions. Cadet utilization takes priority. They include the following:

- Post Exchange
- Game Room and Bowling Alley
- Post Office
- Cadet Store
- Barber Shop
- Infirmary
- Golf Course
- Laundry/Dry Cleaning

6.12 RETIREMENT

*Subject to Change Without Notice
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1. Retirement

All employees (full-time or part-time) are required to participate in the Educational Retirement Plan for educational institutions in the State of New Mexico if they are employed more than twenty-five percent of Full Time Equivalent (.25 FTE). Eligible employees are notified of their eligibility to participate by the Human Resources Office. The following information is general in nature and covers the basic essentials of the Member Handbook of New Mexico Educational Retirement Board. Copies are available online at the NMERB.

- 1.1. Employees at NMMI are under the New Mexico Educational Retirement Act, which became effective 1 July 1957. The Act provides a sustained program of retirement benefits for public school teachers and other school employees. Employees at NMMI are under the New Mexico Educational Retirement Act. The Act provides a sustained program of retirement benefits for public school teachers and other school employees. Statutes setting forth the provisions of the law relating to Educational Retirement Act (ERA) are Sections 22-11-1 through 22-11-52 NMSA, 1978 Compilation.
- 1.2. Members contribute a percentage of their total earnings through payroll deduction and NMMI contributes an equal or greater amount as indicated by the State of NM ERB.
- 1.3. Employees contemplating retirement should contact the ERB for an estimate of benefits. Information required for an estimate includes: 1) member's current annual salary, 2) estimated date of retirement, and 3) the birthday of employee and beneficiary, if the survivors benefit is opted.
- 1.4. An employee who is planning to retire should notify NMMI at least 30 days prior to the desired retirement date, however, at semester end would be preferred, so that an application for benefits can be completed by the employee and NMMI, and NMMI is able to recruit a replacement. The employee should complete a request for retirement insurance benefits. Late notification could result in a delay of retirement payments.
 - 1.4.1. A regular member may withdraw all of his/her contributions, less membership fee, if he/she terminates employment with New Mexico schools and is not eligible for retirement.
- 1.5. Retiring NMMI employees shall be recognized annually at Final Cadet Parade.
- 1.6. Beginning with FY July 1, 2004, NMMI employees retiring in good standing with at least 25 years of completed service at NMMI may request a NMMI saber. Employees considered must be in good standing only if they have satisfactorily completed all steps on NMMI's out-processing form and given at

least two weeks of notice. Use of annual leave and sick leave is excluded from the two-week notice.

1.7. NMMI is an equal opportunity employer.

1.7.1. Retirees must follow ERB guidance on the Return-To-Work Program. Retirees may apply for any openings at NMMI and compete for the positions. If rehired, they will not maintain rank and seniority. They will be considered new hires for all purposes.

1.8. Employees Excluded from ERB Coverage (ERB RULE II, AMENDMENT NO. 4)

- Cadet employees
- Employees contracted for only a summer session, less than .25 FTE, and who were not a member of ERA in the preceding regular school term and who will not be employed by NMMI in the ensuing school term
- Employees contracted to replace another employee who is temporarily absent and is considered a "substitute." An employee contracted to fill a vacant position (including a position vacated by an extended leave of absence) is not considered a "substitute" and must be covered under ERA. The .25 Rule applies.
- Independent contractors who perform services for NMMI on a fee-for-service basis
- Employees contracted on a short-term basis for not more than thirty (30) workdays during the fiscal year (July 1 – June 30). This rule shall not be construed to exclude the first thirty (30) days from coverage if employment is continued.

6.13 GROUP LIFE AND HEALTH INSURANCE

*Subject to Change Without Notice
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1. General

NMMI provides a diversified package of insurance benefits including medical, dental, vision, life and disability insurance. NMMI pays a portion of these insurance costs. In addition, a Pre-Tax, i.e. Premium Only Plan (POP) is available. This policy provides a general description of NMMI's insurance benefits. For a more complete explanation of the benefits, please refer to the Benefit Plan Handbook, issued by the NMMI Human Resources Office (originated from the Risk Management Division, General Services Department, Santa Fe).

NMMI provides its benefits identified in this section through the State of New Mexico Risk Management Division (RMD), however, NMMI has opted to adjust some coverage to its needs, which may vary from the RMD coverage. It is also cautioned that such coverage may be adjusted as RMD will provide during Open/Switch Enrollment periods.

2. Eligibility

The following individuals are eligible to receive any of the insurance benefits offered by NMMI:

2.1. Eligible Employees

2.1.1. Employees who are full-time regular employees working thirty (30) hours or more per week (.75 FTE or greater)

2.2. Ineligible Employees

2.2.1. Part-time employees working less than thirty (30) hours per week (less than .75 FTE)

2.2.2. Temporary employees

2.3. Eligible Dependents

Eligible employees, as described as listed herein, and may choose insurance coverage for eligible dependents. Dependents include the following:

2.3.1. A lawful spouse (must provide a copy of marriage certificate and complete Eligibility Certification Affidavit)

2.3.2. A domestic partner (must provide completed Affidavit of Domestic Partnership, and provide documentation of dual responsibility)

2.3.3. A domestic partner (must provide completed Affidavit of Domestic Partnership, and provide documentation of dual responsibility)

2.3.4. Single or married children, adopted children, step-children, children of domestic partners, and children for whom the employee has court-

approved legal guardianship are covered to age twenty-six (26); (documentation of verification must be provided)

- 2.3.5. Applicable children over the age of twenty-six (26); if mentally or physically handicapped, provided extension of coverage is applied for within thirty-one (31) calendar days of the child's twenty-sixth birthday (documentation of verification must be provided)

3. Coverage Period

3.1. Coverage Begins

3.1.1. Initial Eligibility Period

To obtain coverage, an eligible employee must enroll in an insurance plan within thirty (30) calendar days from the date of hire. Enrollment forms must be provided to the Human Resources (HR) no later than the thirty-first (31st) day from the date of eligibility. Coverage for the employee and dependents (if selected) will normally begin on the first or sixteenth day of the month following the date of hire. If the hiring date is between the 1st and the 15th of the month, coverage shall start on the 1st day of the following month. If the hiring date is between 16th and the end of the month, coverage shall start effective 16th day of the following month. If an employee does not enroll within thirty-one (31) calendar days of hire, the employee must wait until the next Open Enrollment period, as determined by the State of New Mexico Risk Management Division, unless the employee experiences a Qualifying Change of Status. In these cases the employee may make the changes within thirty-one (31) days of the Qualifying Event.

3.1.2. Qualifying Event/Change of Status

- Change in job status
- Marriage
- Divorce
- Death of a spouse or dependent
- Birth of a child
- Adoption
- Any change of status as defined by Section 125 of the internal Revenue Service Code

If a Change of Status occurs, Human Resources must be notified immediately and the change in coverage will become effective the day following the day of the Change in Status, provided the enrollment change is made within thirty-one (31) days of the Qualifying Event/Change in Status.

3.1.3. Open Enrollment

Periodically, Open and/or Switch Enrollment will be scheduled to allow employees to select or change insurance benefits. Such Enrollment periods are set by the State of New Mexico Risk Management Division, Santa Fe. At the time of such an Open and/or Switch Enrollment Period, the Human Resources Office will notify

NMMI employees in order to allow enrollment, cancellation, or other changes to their coverage, as specified by the Risk Management Division.

3.2. Coverage While on Leave of Absence Without Pay (LWOP)

An employee on approved leave of absence without pay (LWOP) may continue insurance coverage. Depending on the circumstances, the employee must pay the employee's portion or, the employee and employer's portion of the bi-monthly premium. It is the employees responsibility to pay the NMMI Payroll Office by the 5th and 20th respectively of every month.

If an employee cancels insurance while on LWOP, he or she must re-enroll within thirty-one (31) calendar days after returning from LWOP or at the next available open enrollment. If the employee does not elect to re-enroll within thirty-one (31) calendar after returning to pay status and waits until the next open enrollment period, the employee will not have coverage until elections made during Open Enrollment become effective.

3.2.1. Separation

The Human Resources Office will notify the employee upon cancellation of Insurance benefits. Cancellation of insurance coverage usually involves termination of employment. Termination of coverage will be initiated by the Human Resources Office and will be effective either the 1st or 16th of the respective month of termination of employment. If the employee's paycheck is not enough to cover the required premium cost, the employee will be billed for the difference. In accordance with the COBRA continuation provision, an employee who separates from NMMI may elect to continue medical, dental, and/or vision insurance through the State of New Mexico Risk Management Division.

3.2.2. Employee Eligibility Ceases

If an employee is no longer eligible for coverage, insurance benefits for the employee and dependents will terminate on the last day of the month in which the eligibility ceases. The employee will be responsible for the full month's insurance premium through payroll deduction. If the employee's paycheck is not enough to cover the full insurance premium, the employee will be billed for the difference. This would apply to employees whose assignment:

- is reduced to less than .75 time
- OR**
- changes from full-time to temporary

In accordance with the COBRA continuation provision, ineligible employees may elect to continue their medical, dental, and/or vision insurance through the State of New Mexico Risk Management Division.

3.2.3. Dependent Eligibility Ceases

When a dependent is no longer eligible for coverage as described herein, insurance benefits will terminate as of midnight on the last day of his/her eligibility. In accordance with the COBRA continuation provision, ineligible dependents may elect to continue their medical, dental, and/or vision insurance through the State of New Mexico Risk Management Division.

4. Types of Insurance Coverage

The types of insurance benefits available through NMMI include group medical, dental, vision, life, and disability. With the exception of vision, dependent life and ARAG Legal and plus Senior, premium costs are shared by the employee and NMMI. When an employee enrolls in any of the insurance plans, the premiums are automatically deducted from the employee's paycheck. NMMI contributes a percentage of the premium on medical, dental, life and disability. The percentage contributed by NMMI is based on salary according to the following schedule:

Base Salary	NMMI's Share	Employee's Share
Below \$15,000	75%	25%
\$15,000 – less than \$20,000	70%	30%
\$20,000 – less than \$25,000	65%	35%
\$25,000 or more	60%	40%

4.1. Medical, Dental, and Vision Insurance

NMMI's insurance program offers medical, dental, and vision coverage. Both, individual and dependent coverage are available. Payroll deductions for medical, dental, and vision premiums can be made on a pre-tax basis (POP), thereby reducing social security, federal, and state income taxes.

4.1.1. Pre-Tax Premium Only Plan (POP)

NMMI's Premium Only Plan (POP) provided through the State of NM RMD, allows "your share" of the contribution on the cost of medical and/or dental coverage and/or vision coverage to be subtracted from the gross pay before taxes are calculated. Enrollment in POP reduces the employee's amount paid in federal, state, and FICA (social security) taxes. This method of pre-tax payment generally increases the employee's take-home pay. If this method is used, the employee may not deduct medical, dental, and vision premiums when filing federal and state income tax returns. Additionally, the employee may have a slight reduction at the time the employee qualifies for social security income benefits. When an employee enrolls in any insurance plan, the employee is enrolled automatically in POP. If the employee elects insurance coverage and does not want POP, a form must be completed declining the POP election. The POP election is valid through June 30th of each year and may only be changed during open enrollment or as the result of an Internal Revenue Service (IRS) defined "change in status."

4.2. Employee Group Life Insurance and Accidental Death and Dismemberment insurance and Dependent Life Insurance.

Employee Group Life Insurance is available to all eligible employees and dependents. The Basic Life insurance coverage is available to employees for \$50,000 and \$10,000 for a spouse and \$5,000 for children.

4.3. Employee Supplemental Life Insurance

Full-time employees may also elect Supplemental Life insurance at 1, 2, 3, 4, or 5 times the employee's annual earnings. For purposes of benefit calculation, annual earnings will be rounded to the next higher multiple of \$1,000, if not already a multiple of \$1,000. The maximum coverage amount is \$400,000. Acceptable evidence of good health may be required to become insured for an amount of coverage in excess of \$150,000. Cost is determined by age.

4.4. Short and Long Term Disability Insurance

The State of New Mexico Disability policy is a self-insured plan that was created to provide financial assistance to those that lose income due to a sickness or injury and are unable to work for a period of time.

- The Disability policy is comprised of two benefits; Short Term Disability (**60% of weekly wages for a maximum of 24 weeks, after a 7 day elimination period which benefits are paid weekly**) and Long Term Disability (**2 years maximum, 40% paid monthly one month in arrears.**)
- For a thorough Summary of Benefits please go to the following website:
<https://intranet.nmmi.edu/humanResources/benefitlinks.htm>

4.4.1. A claim for Disability can be filed even if the employee has not exhausted all of their annual, sick or donated leave time. The purpose of a disability claim is to help prevent the employee from exhausting all of their leave balances so that when they return to work they may still have leave in their balances.

In order to ensure that the employee does not get paid more than 100% of their pre-disability earnings the following policy and procedures have been implemented in submitting a disability claim:

- The Employer form must be filled out by Human Resources. The claim must then be forwarded on to the individual that process payroll for the claimant. The Human Resource Agent as well as the payroll processor must both sign and print their names on the Employer form. **If the employer form is not completed in its entirety the claim will be sent back to the human resource bureau and will not be processed.**
- The employee and medical release form should be filled out by the employee and completed forms should be submitted to Human Resources. If the employee feels comfortable and has signed the optional portion (bottom of page) of the medical release then the employee can also give to Human Resources the

completed physician update form. If the employee does not sign the optional portion or would rather not have their Human Resources know of their medical condition then they may have the physician fax their portion of the claim directly to Risk Management Division or the employee may fax that portion directly (this may delay the processing of the claim).

- Risk Management Division will send an email to the individual who signed the Employer form, letting them know that the claim has been accepted or denied.
- This policy will ensure that Disability claimants are receiving the benefits that they have paid for as well as ensure that we are all being fiscally responsible in our payments to our employees.

4.4.2. Coordination of Short Term Disability Benefits and Other Paid Leave Formula if employee makes \$20.83 hourly or less:

- Hourly Wage X 40 = Weekly Wage
- Ex. 15.00 hr. X 40= \$600
- Weekly Wage X 60% = Disability Benefit Amount (maximum \$500)
- Ex. \$600 X 60%= \$360
- Weekly Wage – Benefit Amount = Amount that can be paid by other sources (annual, donated, sick, etc.....)
- Ex: \$600-\$360= \$240
- Amount that can be paid / hourly wage = number of hours that can be paid from other sources of payment
- Ex: \$240/ \$15 hr. = 16 hours

4.4.3. Coordination of Short Term Disability Benefits and Other Paid Leave Formula if employee makes \$20.84 hourly or more.

- Hourly Wage X 40= Weekly Wage
- Ex: \$22 hr. X 40 = \$880
- Weekly Wage X 60% = Disability Benefit Amount (maximum \$500)
- Ex: \$880 X 60% = \$528 so we will pay to the maximum of \$500
- Weekly Wage – Benefit Amount = Amount that can be paid by other sources (annual, donated, sick, etc.....)
- Ex: \$880 - \$500 = \$380
- Amount that can be paid / hourly wage = number of hours that can be paid from other sources of payment
- Ex: \$380 / \$22 hr. = 17.27 hours

5. Consolidated Omnibus Budget Reconciliation Act (COBRA)

5.1. COBRA ADMINISTRATION

The Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA) requires employers (except for churches and federal government agencies) who have 20 or more employees and offer health coverage to those employees, to offer continuation coverage to employees and dependents of employees upon the occurrence of a qualifying event.

The COBRA Unit at Risk Management Division provides the following services to assist NMMI in their compliance with COBRA:

- 5.1.1. Notify the qualified beneficiaries about their right to continue coverage.
- 5.1.2. Billing and collecting premium from all individuals who elect to continue the health care coverage, including former employees, divorced spouses and children.
- 5.1.3. Follow up on individuals who are late with premium payments and terminating individuals as appropriate.
- 5.1.4. Monitoring the expiration date of coverage and terminating individuals at the end of their continuation period.
- 5.1.5. Notifying participants turning 65 that COBRA coverage will cease the first of the month upon attaining age 65. At this time, all eligible dependents will be informed that they may continue up to 36-months maximum.
- 5.1.6. Responding to questions from continued employees or dependents about the status of their coverage.

5.2. COBRA OVERVIEW

- 5.2.1. Once Risk Management Division (RMD) receives the COBRA transmittal from the Group Representative at NMMI, a qualifying event letter is sent to the eligible participant and/or dependents. This letter gives payment timeframes, important addresses and telephone numbers.
- 5.2.2. Once the participant decides to enroll in COBRA, the application is mailed directly to Risk Management Division. The application is reviewed for completeness and then enrolled into the billing system (24-48 hour turnaround).
- 5.2.3. A billing statement is produced once the enrollment form is received and once a month thereafter. Risk Management Division will prorate bills for a partial month payment for the first and last month if COBRA was started in the middle of a month.
- 5.2.4. Monthly billing statements are produced 20 days before each payment is due.

- 5.2.5. Any changes (e.g., terminations, address changes) must be sent in writing or by way of facsimile to Risk Management Division and processed as correspondence by the COBRA Unit.
- 5.2.6. All participants are given a 30-day grace period from the due date. If by close of business by the end of each month the account reflects non-payment, the account automatically terminates. A letter is generated stating the account has been terminated due to non-payment.

5.3. BASICS OF COBRA COMPLIANCE

- 5.3.1. The employer or the plan administrator (RMD) must notify every employee and every covered dependent of all their rights under COBRA when they first become covered under the group plan. Separate notices must be sent if separate residences are maintained. This applies to all current and future employees and covered dependents.
- 5.3.2. Each time a qualifying event occurs, the employer must notify, within 14 days, each qualified beneficiary of his or her continuation rights, benefits and premium rates applicable to the plan (s) for which they are eligible.
- 5.3.3. For each kind of notification, good faith compliance has been defined as first class mail, addressed to the employee and covered dependents, sent to the last known home address. If the dependent lives at a separate address, separate notifications must be sent.

5.4. COBRA QUALIFYING EVENT

Any of the following events, would cause a loss of coverage by a qualifying beneficiary under the plan:

- 5.4.1. Termination (other than for gross misconduct) of the employee's employment, for any reason (layoff, resignation, retirement, etc.)
- 5.4.2. Reduction of hours worked by an employee
- 5.4.3. Death of the employee
- 5.4.4. Divorce or legal separation
- 5.4.5. Dependent child ceasing to meet eligibility requirements
- 5.4.6. If coverage is lost because the active employee elects to make Medicare the primary coverage, thus becoming ineligible under the plan

5.5. PRE - QUALIFIED BENEFICIARY

- 5.5.1. Any employee, or covered dependent that was covered on the date before the qualifying event, who would lose coverage under the plan, at any time, because of the qualifying event.

5.6. NON-QUALIFIED BENEFICIARY

5.6.1. Domestic Partners and the dependent children of Domestic Partners.

5.7. NON-QUALIFIED BENEFICIARY'S COBRA ELIBILITY

5.7.1. The COBRA law states non-qualified beneficiaries are not eligible for continuation of coverage under COBRA independently from the employee. Non-qualified beneficiaries are eligible for continuation of coverage in situations where the employee has experienced a qualifying event, and the employee must enroll in COBRA coverage in order for the non-qualified beneficiaries to be able to enroll.

5.8. RISK MANAGEMENT DIVISION'S POLICY

5.8.1. Domestic Partners and the dependent children of Domestic Partners will be eligible for COBRA if they incur a qualifying event the same as an employee. However the domestic partners and domestic partner's children will need to be processed manually by sending a COBRA notification to Risk Management Division's COBRA unit.

5.9. Length of COBRA Continuation Coverage

5.9.1. The chart below summarizes the length of continuation coverage to which an employee or dependent is entitled as a qualified beneficiary:

Qualified Beneficiary	Length of Coverage	Initial Qualifying Event
The employee and their dependents including newborns and adopted children	<ul style="list-style-type: none"> - 18 months from the date of the qualifying event - an additional 11 months if you become disabled within the first 60 days of the qualifying event 	<ul style="list-style-type: none"> -reduction in work hours -termination of employment
Dependents including newborns and adopted children.	- 36 months from the date of the qualifying event	<ul style="list-style-type: none"> -divorce or legal separation -child's loss of dependent status -entitlement to Medicare - death
The employee and their dependents	- an additional 11 months, or a total of 29 months from the date of the qualifying event which started the COBRA continuation coverage	- if before or within 60 days of the initial COBRA continuation coverage, the employee (or their dependent) become disabled, coverage may be extended for 11 months
Dependents	- an additional 18 months or a total of as many as 36 months from the date of the first qualifying event	- if the dependent has already elected 18 months of <u>COBRA</u> coverage and experiences a second qualifying event, coverage may be extended to 36 months from the first qualifying event

6. Health Insurance Portability and Accountability Act (HIPAA)

6.1. Introduction

The Health Insurance Portability and Accountability Act (HIPAA) was passed by Congress in 1996. Its original version mandated enhanced portability of employer-based health insurance for individuals changing jobs and made reference to future requirements regarding administrative simplification (common data code sets), privacy, and security. The Federal Department of Health and Human Services, Office of Civil Rights is the governing entity with regard to HIPAA regulations while penalty enforcement is conducted through the Federal Department of Justice.

6.2. Privacy

The first segments of HIPAA required compliance are the privacy guidelines (April 14, 2003). The extremely lengthy document (on file with RMD) provides privacy guidelines for all “covered entities” under the law. A majority of the document details requirements for health care providers and health plans. However, as the sponsor of a self-insured health plan, RMD is considered a “covered entity” in certain respects. The Privacy guidelines are in place to protect how Personal Health Information (PHI) is disseminated. RMD has been careful to engineer agreements with vendors to minimize exposure with regard to these requirements.

Most of these functions will be greatly simplified for RMD when compared to a Health Plan, for example. RMD consciously limits access to PHI (mostly in the form of employee appeals) and does not disseminate this information outside of HIPAA guidelines. HIPAA guidelines state that the PHI may be disseminated (to the Health Plan) to facilitate the payment of a claim.

6.3. Standardized Data Code Sets

The Department of Health and Human Services has established standardized ways for all information related to health plan administration to be sent and received electronically. All entities, be they providers, health plans or employers who send information electronically are required to begin using these standardized code sets by October 16, 2003. RMD established a contingency plan to be effective April 2004, and is currently compliant with electronic eligibility sending to all vendors.

7. Related Information

It must be noted that NMMI is enrolled under the State of New Mexico Risk Management Division Benefits Plan, and therefore changes may have to be adopted at the point of upcoming benefit negotiations.

6.14 FLEXIBLE SPENDING ACCOUNTS PROGRAM

*Subject to Change Without Notice
Authorized by NMMI Regents' Policy 9
"Responsibility of the President/Superintendent of NMMI"*

1. General

NMMI has a Flexible Spending Accounts Program (Flex Program) through the State of New Mexico Risk Management Division, which allows eligible employees to set aside a portion of their annual salary to pay qualified unreimbursed medical expenses and qualified dependent care expenses incurred during the year before taxes are calculated. Described herein are policies pertaining to the Flex Program. The Flex Program is explained in more detail in the State of New Mexico Benefit Plan Handbook.

2. Authority

The Flex Program is a fringe benefit authorized by the Internal Revenue Code and regulated by the Internal Revenue Service (IRS). IRS regulations define which expenses qualify for reimbursement under this plan. Nothing in this policy shall impose or limit requirements that may be otherwise imposed by law. Exceptions to the regulations governing this Program cannot be granted by NMMI. Tax law changes may affect this Program.

3. Flexible Spending Accounts

Employees can participate in the Flex Program by setting aside part of their pay on a before-tax basis to:

- 3.1. Set up a [Medical Reimbursement Account](#) to pay certain qualified medical, dental, prescription, vision, and hearing care expenses for eligible employees or their eligible dependents that are not covered by insurance plans. IRS identifies qualifying medical expenses in Publication 502, which is available from any IRS office. Examples of qualified medical expenses are listed in the State of New Mexico Risk Management Division Handbook. The employee's contribution may not exceed \$5,000 per household, per plan year, or \$2,500 if you are married and file a separate tax return.
- 3.2. Set up a [Dependent Care Spending Account](#) to reimburse the employee for dependent care at a licensed facility, services from unrelated individuals, care at dependent care centers, and other qualified dependent care expenses. The employee's contribution may not exceed \$5,000 per household, per plan year, or \$2,500 if you are married and file a separate tax return.

The money an employee sets aside for the Flex Program will be subtracted from his or her gross pay before income and Social Security taxes are calculated, thus reducing taxable income. Employees choose how much to contribute. The annual contribution amount chosen is equally divided into pay-period deductions, to be reimbursed for eligible expenses. The employee must submit claims to the Flex Program administrator, which is identified by the State of New Mexico Risk Management Division.

Since individual circumstances vary, participation in a Flex Program does not always mean tax savings. Employees must decide for themselves if the Program is advantageous to them.

3.1. Plan Year

The plan year for the Flex Program begins on January 1st and ends on December 31st. Continued participation requires active enrollment each year.

4. Eligibility

4.1. Permanent Employees at .75 or greater FTE.

5. Enrollment

Employees may enroll in the Flex Program during the open enrollment period, which normally occurs in November each year. Current participants must re-enroll during the open enrollment period to participate for the following plan year. New eligible employees may enroll in the Flex Program no later than thirty (30) days following the date of employment. Employees may enroll in either one (1) or both of the Flexible Spending Accounts. Participants should carefully estimate their contribution to each of these spending accounts, since this type of plan is regulated by the IRS. The following are important rules to remember:

- Any unused money that the employee has not withdrawn to pay for eligible expenses for the plan year will be forfeited. There is a 75-day grace period to incur expenses after the end of the calendar year (currently, March 15th). The employee will have ninety (90) days after December 31st to submit claims with dates of service in the prior year (currently March 31st).
- Once a plan year begins, Medical Reimbursement Account contribution amounts may not be changed until the following open enrollment period.
- Once a plan year begins, Dependent Care Spending Account contribution amounts can be changed during a plan year only if the employee has a qualified change in family or employment status. Any change made must be consistent with the qualifying event.
- Money cannot be transferred between Flex accounts.

5.1. Estimating Expenses

When enrolling during an open enrollment period, employees should estimate their expenses for the following plan year. Employees enrolling at any other time should estimate their expenses for the balance of the current plan year. Since unused balances are forfeited, employees generally should "under" estimate their expenses.

5.2. Changing Your Plan Election

Unless there is a qualified change in family status or employment status, the IRS requires that deductions continue until the last pay period in the plan year. Employees retiring or separating from NMMI may elect to have a lump sum amount deducted from the final pay check (contact The NMMI Payroll Office for details).

5.2.1. An employee's participation in this plan automatically stops:

- when the employee retires or separates from NMMI
- when the employee is no longer an eligible employee or
- as of the end of the plan year (unless the employee re-enrolls during open enrollment)

6. Accessing Accounts for Expenses

There are two ways employees can access their flexible spending accounts for covered expenses. The employee should use the method that best suits their needs and may use any combination of the two methods. The money in the Dependent Care Spending Account cannot be claimed until after the payroll deduction.

6.1. Direct Payment

Covered expenses can be paid for directly using a specific debit card issued by the plan administrator. If the employee's health care provider does not accept the card, the employee may request reimbursement under the procedures described below in **Section 6.2**. Employees must maintain all required documentation for the covered expenses and may be required to send them to the plan administrator to justify the expenditure.

6.2. Reimbursement

If the covered expense is not paid using the debit card described in **Section 6.1** above, the employee may request reimbursement by completing an [FSA Medical and Dependent Claims Form](#) and attaching the bill, receipt, or explanation of benefits, and sending or faxing the claim form to the FSA plan administrator. A reimbursement check is generally mailed to the employee within two (2) weeks or employees may request a direct deposit of funds into their checking account.

7. Related Links

Forms available at [Flex Spending Account - CompuSys/Erisa](#) website.

6.15 ENROLLMENT IN CLASSES

*Subject to Change Without Notice
Authorized by NMMI Regents' Policy 9
"Responsibility of the President/Superintendent of NMMI"*

1. Enrollment in NMMI classes is permitted for full-time employees with prior approval by the Chief Financial Officer, using the following criteria:
 - Enrollment is limited to one (1) class per semester without a tuition charge
 - Enrollment is contingent on the approval of the immediate supervisor and Chief Financial Officer. Factors to be considered include the likelihood that enrollment in the class will benefit job performance and the class is relevant to the current contracted position
 - Enrollment is allowed on a space available basis only
 - Enrollment must not cause a hardship on other employees

Time spent in the classroom must be made up each class day or no later than the same week. Time schedules must be approved by the supervisor and not cause a hardship on other employees.

6.16 DISCOUNTED TUITION FOR DEPENDENTS

*Subject to Change Without Notice
Authorized by NMMI Regents' Policy 9
"Responsibility of the President/Superintendent of NMMI"*

1. General

After one year of service, NMMI offers a tuition discount to dependent children of regular full-time employees to attend NMMI.

2. Eligibility and Rate

NMMI offers a 50% tuition discount for eligible dependent children of regular full-time employees. The 50% discount applies only to the "tuition" portion of the total cost of attendance. For purposes of this policy, the employee must have reached their one year anniversary on or before January 1 for the Spring semester, or August 1 for the Fall semester. (For example, if the employment anniversary date is October 1, then the discount does not apply until the following Spring semester.) Biological/adopted children and legally dependent stepchildren who are New Mexico residents and meet minimum admissions criteria are eligible to participate. Dependent eligibility for the tuition benefit ceases once an employee resigns. Should the employee terminate employment prior to the 3rd Friday of the start of classes, the tuition benefit ceases and the discount is removed. If employment is terminated subsequent to the 3rd Friday, the dependent child will continue to receive the previously approved tuition discount for the applicable semester. Tuition discounts are not cumulative where two spouses work at NMMI. Summer programs or camps are not eligible for discount.

3. Cadet Status

The dependent must be a New Mexico resident as verified by the Registrar. The discount is renewable each semester in which the eligible dependent cadet remains in good standing.

4. Financial Aid

The Financial Aid Office will be informed of a cadet's participation in this program. A reduction of the cadet's financial aid package may result from the reduced tuition. Information on the possible effect of this program on the student's financial package should be obtained from the Financial Aid Office. The sum of the discount and institutional tuition scholarships shall not exceed the total costs of tuition and mandatory cadet fees. The limits imposed by this policy do not affect institutional scholarships which cover charges other than tuition and mandatory fees (i.e., room, board). Similarly, the limits imposed do not affect those cadets who receive external scholarships.

5. Taxation

Under current IRS regulations (Code Section 117), NMMI is permitted to provide undergraduate educational benefits to employee's dependents tax-free.

6.17 INTERIM ASSIGNMENT ADDITIONAL COMPENSATION

*Subject to Change Without Notice
Authorized by NMMI Regents' Policy 9
"Responsibility of the President/Superintendent of NMMI"*

1. General

NMMI provides every Fair Labor Standards Act (FLSA) "Exempt" employee with a base salary. An Exempt employee, by nature of his/her position, is considered to be available for work assignments without additional remuneration at times other than the employee's regularly scheduled hours. However, there are circumstances when additional non-standard payment is appropriate. This compensation is based upon an analysis of the value of the additional work assignment the exempt employee performs to NMMI. On a very limited basis, departments may apply to Human Resources for additional compensation for Exempt staff assigned on an "interim basis" performing the primary duties for the following:

- 1.1. Performing the primary duties of a vacant position in addition to performing their regular job duties.
- 1.2. Performing the primary duties of an incumbent who is on Sick or Military leave in addition to performing their regular job duties.

This policy applies only to Exempt Staff. Interim assignment compensation is not applicable for Faculty or Non-exempt employees. Faculty receives overload compensation based on the [Faculty Handbook](#). Non-exempt employees must be compensated for work in excess of 40 hours in accordance with the FLSA.

2. Guidelines

Exempt staff employees may receive additional compensation for services performed on an interim basis, after the position has been vacant for at least 30 days, provided:

- Assignment must have **prior approval** from supervisor and Human Resources Office specifying duties, pay, and length of interim assignment.
- The performance of such duties requires additional work hours beyond their regular 40-hour assignment; and
- The employee is performing 100 percent of his/her regularly assigned duties and responsibilities.
- Minimum Interim term is one month.
- Maximum term of the assignment shall be no longer than six months.
- Interim assignment should have a written specific beginning and ending date.

- The Interim compensation shall be up to 30% of the pay of the incumbent for which the exempt employee is performing the duties assigned to the vacant position.
- Additional compensation, as described above, is intended for Short-term arrangements, not as an ongoing compensation strategy.
- Payment for an exempt employee is payable in the month following the month in which the qualifying activity takes place. A payment request memo is required to be submitted to Human Resources which includes time period for which payments will be made.

3. Attachments:

[Interim Pay Request Form.pdf](#)

4. Revocation of Interim Assignment

Interim assignments should not conflict with or reduce effectiveness of the employee's performance of his/her primary job responsibilities. If at any time the supervisor deems the employee not to be performing their regular job responsibilities 100 percent, the supervisor with Human Resources approval may revoke the interim assignment and no further additional compensation will be accrued from the point of revocation.

6.18 STAFF DEVELOPMENT PROGRAM

*Subject to Change Without Notice
Authorized by NMMI Regents' Policy 9
"Responsibility of the President/Superintendent of NMMI"*

1. General

The purpose of this Policy is to support continuous learning by NMMI Staff through providing a funding source for participation in work-related development and training where funding for such development is not otherwise included in departmental operating budgets or other funds. Such opportunities include professional development classes, accredited degree program courses, seminars and workshops that enable employees to increase the effectiveness of their performance in their present NMMI positions and prepare for related career advancement within the employees' departments. NMMI's best interests are served when a policy is in place that supports and nurtures the climate and conditions necessary for both individual and organizational growth. Staff development involves and benefits everyone who influence students' learning. When school personnel define and improve their skills and knowledge, students benefit.

2. Eligibility

Every permanent full-time employee who has completed at least one year of continuous employment with NMMI is eligible to participate. Faculty, part-time temporary, student employees and contract workers are not eligible for programs offered under this Policy. Faculty Development is separately defined within the [Faculty Handbook](#).

The awardee must not receive financial assistance from any other source that would duplicate Staff Development assistance. (Scholarships, grants and departmental funds may augment but not duplicate Staff Development assistance.)

3. Funding

At the beginning of each fiscal year, the NMMI budget will include funds designated specifically for staff training and development, contingent upon funding availability. Any unused funds at the end of the fiscal year will revert to the General Fund balance. These funds are to supplement, not supplant, departmental training/travel. (Educational endowments must be utilized first before Staff Development Funds).

4. Staff Development Committee

A Staff Development Committee comprised of appointed three (3) staff members and the Assistant Director of Human Resources or designee, (a permanent member of the committee), will be responsible for review and approval of all requests for funds under this policy. The 3 staff members will designate one person as the Chair of the Committee (HR designee excluded from serving as Chair).

5. Eligible Programs

The Staff Development Program consists of two program classifications: Staff Training Assistance Program (STAP) and Staff Tuition Reimbursement Program (STRP).

5.1. Staff Training Assistance Program (STAP)

STAP assistance may be requested for job-related training or development. STAP training must be directly related to performance or license requirements of the employee's current assignment, including training required to respond to organizational or operational need as defined by the employee's supervisor or the Institute. Such training may be a formal course given for academic credit or certificate of completion by an accredited college, a seminar, workshop or special emphasis short-duration program presented by an approved provider; or training obtained at a conference or professional organization.

5.2. STAP Policy

- Current Maximum STAP reimbursement is \$1,000 per event per person, not to exceed \$1,000 per fiscal year.
- Eligible expenses are:
 - Registration fees and/or tuition
 - Books
 - Travel expenses paid in accordance with NMMI travel policy, if applicable
- Submitted requests will be charged against the STAP funds based on the class start date.
- Release Time/Time Off with Pay: Time off must be compatible with the work schedule and is at the discretion of the department's supervisor. Job-related training time in the approved STAP course is considered time worked and subject to the provisions of NMMI Human Resources Policies.
- Employees must provide evidence of satisfactory completion of the program.
- Must provide evidence of satisfactory completion of the seminar/conference in the form of a certificate of completion, or an itinerary and travel report.

5.3. Staff Tuition Reimbursement Program (STRP)

Eligible employees may request STRP support for courses that fulfill undergraduate or graduate degree requirements at a fully accredited college, university, technical/vocational school or institute, but only after the employee is admitted to the degree program (certificate programs included).

5.4. STRP Policy

- Current maximum STRP is \$2,000 per semester per person, not to exceed \$4,000 per fiscal year.
- An employee may not receive reimbursement under STAP and reimbursement under STRP for the same course or program. For example, you cannot use STRP for tuition and STAP for books, supplies and travel for the same course.
- Must not be receiving financial assistance from other sources that would duplicate STRP.
- Must be enrolled in a degree program, either Undergraduate or Graduate to qualify.
- Eligible expenses are:
 - Tuition
 - Required Fees
 - Required textbooks, CDs, eBooks
 - Travel, room and meals paid in accordance with the NMMI Travel Policies
- Must provide evidence of satisfactory completion of the course in the form of an official grade card, an official transcript, or a written confirmation from the instructor.
- STRP funds will not be paid in advance, but on a reimbursement basis only.
- Employee will not be reimbursed if the employee withdraws from the course or if receives a failing grade (D or F, or Fail if a pass/fail course).
- Release Time/Time Off without Pay: An eligible staff employee may be granted a maximum of 24 hours per month of release time, without pay, for an approved undergraduate or graduate course, if no comparable course is offered during non-work hours. Release Time must be compatible with the work schedule and is at the discretion of the department's supervisor.

6. Application Process

Employees who wish to participate in development opportunities under this program must submit the following for:

6.1. Staff Training Assistance Program (STAP)

- Complete a Request for Staff Development Funds form
- Attach a copy of the program brochure and completed NMMI Travel Request form
- Submit to supervisor and department head for approval
- Submit to Chair of Staff Development Committee at least one month prior to the date of the program.

6.2. Staff Tuition Reimbursement Program (STRP)

- Complete a Request for Staff Tuition Reimbursement Program form
- Attach a copy of the program brochure and completed NMMI Travel Request form
- Submit to supervisor and department head for approval
- Submit to Chair of Staff Development Committee at least one month prior to the date of the program.

The Staff Development Committee will meet on a monthly basis to review and consider all requests for the funds on a first come first served basis under this Policy. The Committee will notify each employee who has requested funds regarding the approval or non-approval of the request.

For all approved requests, the Committee will authorize the Purchase Order and Travel request to be charged to the designated Staff Development Fund.

7. Reporting

The Department of Human Resources shall be responsible for maintaining Staff Development records under this policy. Records on each employee who receives staff development funds shall be maintained and shall include information on what program the employee participated in (program title, dates, location, costs and completion date). This information will be included in the assessment/accreditation records.

8. Taxability

Working Condition Educational Fringe Benefit under IRC Section 132 may be excluded from an employee's gross income if the benefit improves the skills required in doing the employee's present work. For additional tax information, consultation with a tax advisor is recommended.

9. Related Links

Forms can be found on the [Human Resources website forms page](#).

6.19 COMPASSIONATE LEAVE DONATION

*Subject to Change Without Notice
Authorized by NMMI Regents' Policy 9
"Responsibility of the President/Superintendent of NMMI"*

1. Purpose

Compassionate Donation is a method by which one employee may donate earned annual leave to another employee who needs extended time off from work due to his or her own serious health condition or that of an immediate family member, and who has exhausted or will exhaust all applicable paid time off. Compassionate Donation is donated directly to an individual in need; it is not donated to a common donation bank.

In the event that the employee exhausts all applicable paid time off, NMMI employees may want to donate some of their accumulated annual leave to help ease the burden of the employee who would otherwise need to take time off from work without pay. Such donation of accumulated annual leave will be irrevocable and applied as follows:

2. Donations

Only donations of accrued annual leave are permitted; sick leave cannot be donated for the Compassionate Donation program. Annual leave donations must be documented in writing and approved by the Human Resources department to assure sufficient accrued leave exists to support the amount of leave donated.

Time must be donated in minimum increments of 1 day.

All Compassionate Donation must be given voluntarily and anonymously, to avoid a sense of peer pressure. No employee may be coerced, threatened, intimidated, or financially induced into Compassionate Donation. Supervisors should avoid any appearance of soliciting leave from subordinates for transfer. Compassionate Donations will remain anonymous to the receiver.

Any Compassionate Donation not used during each occurrence may not be retained by the receiver. The excess donation would be returned to the donor(s) who was the last to contribute.

Employees may not donate earned time/annual leave that would otherwise have been forfeited due to exceeding the maximum accrual amount. For example, an employee who has reached the maximum accrual of 40 annual days and donates two days for Compassionate Leave, would have a remaining balance of 38 days.

Compassionate Donation is not tax deductible as a charitable contribution.

Earned Time and sick/annual leave will not accrue while receiving Compassionate Donation payments.

3. Procedure

Request

Employees wishing to receive leave must initiate such requests by contacting Human Resources and provide written permission to communicate the request to all staff via email or other means as determined appropriate. The Superintendent or designee will then communicate the request to all potential donors. In the event that an employee is physically or mentally unable to initiate a request through Human Resources, a family member or the supervisor may file the request. All medical information will remain confidential. The internal communication will be as follow:

“A call for Compassionate Leave is requested for [employee name]. Please certify according to the Compassionate Donation Policy the number of days you are donating and send to the NMMI Human Resource Office.”

The Donor must indicate in writing the number of annual leave days they wish to donate, the name of the employee and a signature certifying the following:

“I understand that my donation is voluntary and non-refundable. I understand that a minimum of 1 day of accrued leave is required and that my annual leave balance will be decreased by the amount donated. I certify that my donation will not result in a negative balance. I understand my donation is confidential.”

4. Eligibility

Any full-time or part-time status employee is eligible, after completing their probationary period, to request donated annual leave under the terms of this policy.

To be eligible to receive Compassionate Donation an employee must meet all of the following criteria. An employee must:

- 4.1. Have a serious health condition, or have caregiver responsibilities for an immediate family member with a serious health condition. The leave must be eligible for Family and Medical Leave (FMLA). In addition, NMMI may require the physician’s certification which indicates that the serious health condition will require the employee to be absent from work for a minimum of 10 consecutive calendar days.

- 4.2. Exhaust, or expect to exhaust, all earned time/annual leave, sick leave/sick leave bank, and compensatory time; and must be facing a minimum of five (5) days of unpaid leave.
- 4.3. Have received no more than 20 Compassionate Donation days in the 12-month period immediately preceding the receipt of Compassionate Donation. The total number of received days shall not exceed 20 workdays in a revolving 12-month period immediately preceding the receipt of Compassionate Donation.
- 4.4. Expect to return to work for a period of at least 30 calendar days following the leave.

5. Exclusions

Medical conditions resulting from the following will be excluded from eligibility for Compassionate Donation:

- Any job-related injury or illness during the period for which Workers' compensation benefits have been awarded;
- Intentional self-inflicted injuries
- Injuries occurring in the course of violating a law, ordinance, or policy.

6. Termination of Donation

Compassionate Donation terminates when one or more of the following occur:

- Receiver's employment terminates
- Illness or injury of employee or family member no longer requires absence from work
- Employee returns to work
- Health care provider releases the employee to return to work
- Maximum Compassionate Donation allowance has been exhausted
- Receipt of donations has ended

7. Related Links

Serious Health/non-industrial injury sick leave bank, 6.01
Family and Medical Leave 7.04

SECTION 7: TIME/LEAVE POLICIES



POLICY	POLICY NUMBER
<u>Annual Leave</u>	7.01
<u>Sick Leave</u>	7.02
<u>Other Leave</u>	7.03
<u>Family and Medical Leave</u>	7.04
<u>Office Hours and Official Holidays</u>	7.05
<u>Overtime and Compensatory Time Considerations</u>	7.06
<u>Military Leave</u>	7.07
<u>Inclement Weather</u>	7.08

7.01 ANNUAL LEAVE

*Subject to Change Without Notice
Authorized by Regents' Policy 9
"Responsibility of the President/Superintendent of NMMI"*

1. General

Annual leave or vacation policies apply to professional and support staff members in full-time or part-time employment on twelve (12) month contracts. Employees who are eligible for annual leave are encouraged to take it in a timely manner. A report of accrued annual leave will be provided to each employee on a monthly basis. Refer to the [Faculty Handbook](#) for more information on leave for faculty.

2. Full-time Professional Staff Members

Full-time professional staff members are authorized twenty (20) working days of annual leave with pay within a fiscal year cumulative to a total of forty (40) working days (accumulating at 1.67 days per month).

1. Full-time Support Staff

Full-time support staff members are authorized annual leave with pay on the following basis:

- 1.1. Employees with less than six (6) months service are not authorized annual leave.
- 1.2. Employees with at least six (6) months service but less than one (1) year are authorized five (5) working days of annual leave (accumulating at .84 per month).
- 1.3. Employees with at least one (1) year but less than three (3) years of service are authorized ten (10) working days of annual leave (accumulating at .84 per month).
- 1.4. Employees with at least three (3) years but less than five (5) years of service are authorized fifteen (15) working days of annual leave (accumulating at 1.25 days per month).
- 1.5. Employees with at least five (5) years of service are authorized twenty (20) working days of annual leave (accumulating at 1.67 days per month).
- 1.6. An employee who voluntarily terminates employment prior to working twelve (12) consecutive months shall not be eligible for payment of unused leave.

2. Accumulation of Annual Leave

Annual leave may be cumulative to a total of forty (40) working days but payment of unused leave will not exceed twenty (20) days. Payment of accumulated leave will be made only upon termination of employment. Payment will be made in accordance with the pay schedule in effect on the date of termination.

- 2.1. Annual Leave and Sick Leave do NOT accrue after 45 consecutive calendar days of leave with or without pay, regardless of the type of leave to which the absence is charged.
- 2.2. Part-time, eligible support staff members are authorized a proportionate ratio of those hours listed above, based upon their normal working schedule and their length of service.

3. Supervisor Approval of Leave Time

- 3.1. Supervisors will approve leave schedules after assuring that all-necessary functions will be performed during the employee's absence. Normally, annual leave requests should be made with sufficient advance notice by the employee so the supervisor can plan appropriately.
- 3.2. Annual leave will be recorded in segments of whole, half, or quarter days.

7.02 SICK LEAVE

*Subject to Change Without Notice
Authorized by Regents' Policy 9
"Responsibility of the President/Superintendent of NMMI"*

1. General

The Institute grants paid sick leave to employees to guard against loss of earnings due to illness. Sick leave is not part of salary or wages to which an employee is entitled regardless of need and it is not payable upon termination or separation of employment. Supervisors have the principal responsibility for the proper and consistent application of the sick leave policy. Abuse of sick leave in any form can have serious impact on the morale and effectiveness of all members of a group or office.

2. Eligible Employees

Only regular full-time and part-time staff employees who work 30 hours per week are eligible. Regular part-time employees who work less than 30 hours per week, temporary, and occasional employees are not eligible. Sick leave can be applied only to the illness of the employee or members of the immediate, eligible family members who live in the household of the employee.

3. Authorized Use of Sick Leave

Sick leave is used only for the specific purposes defined below.

3.1. Personal Illness or Injury

Time off due to personal illness or injury (including disability due to pregnancy and childbirth), prescheduled doctor and dentist appointments, and other related medical conditions may be charged to sick leave. Absence from work to care for an ill or injured member of one's immediate family may also be charged to sick leave. Family members may be natural, step, adopted, or foster, and immediate family, for purposes of this policy, is defined as the employee's spouse or domestic partner, children, grandchildren, parents, grandparents, and siblings who live in the household of the employee.

Exceptions to this policy may be approved if a Medical Power of Attorney is provided to the NMMI HR Office, along with a physician's statement indicating the necessity for the NMMI employee to tend to the ill/injured person.

3.2. Quarantine

Time off due to the quarantine of an employee's household may be charged to sick leave.

3.3. Partial Work Days Due to Illness or Injury

Partial days not worked due to an illness or injury may be charged to sick leave.

3.4. Workers' Compensation Pay

When an absence is due to a job-related injury covered by Worker's Compensation, payment from sick leave pay and Worker's Compensation will not exceed the employee's monthly salary.

4. Sick Leave Accrual

Employees shall be granted sick leave at the rate of one (1) workday per employment month cumulative to a total of one hundred eighty (180) workdays of sick leave. In order to receive credit for an employment month, an employee must not have more than two (2) workdays of unauthorized absence recorded during that calendar month.

4.1. Sick leave will be earned from the first full month of employment. In extenuating circumstances, when deemed warranted by the Human Resources Director, sick leave may be loaned or advanced to an employee.

4.2. Although sick leave may be accumulated to a total of one hundred eighty (180) workdays, it will not be used except when an illness occurs.

4.3. Annual leave will be applied against sick leave in excess of the allotted days, but sick leave may not be applied against annual leave. The Human Resources Office will examine exceptional cases on an individual basis.

4.4. No pay for unused sick leave shall be made upon termination of employment payment.

5. Reinstatement of Sick Leave Balance

In the following situations, an employee's sick leave balance may be reinstated.

5.1. Reinstatement After Lay-Off

The unused sick leave balance as of the date the employee is separated will be reinstated upon request for those employees who are recalled from layoff within six (6) months of the date of the action.

5.2. Reinstatement After Leave Without Pay

Unused sick leave credits as of the start date of an approved leave of absence will be reinstated upon request if the employee returns within the period of the authorized leave.

5.3. Rehire

Employees rehired within 30 days of separation will resume sick leave accrual at the rate in effect at the time of separation, but will not be given credit for unused sick leave at the time of their separation. Employees rehired or reinstated after the expiration of time limits specified in this section are considered as new hires for sick leave purposes.

6. Approvals and Physician’s Statement

- 6.1. Time off requested for non-critical doctor's appointments must be pre-approved by the supervisor and may be denied due to business needs. An employee must report any unplanned absence due to illness or injury to his or her immediate supervisor by telephone within the first hour of business. Supervisors have discretion to take emergency situations into account if the employee is unable to call before the start of his or her shift. Departments may have additional specific provisions regarding call-in procedures for their areas. Failure to report an absence and to request sick leave in accordance with departmental procedures may be cause for denial of the leave and/or disciplinary action. Sick Leave may not be taken until the pay period following the date in which it was accrued.
- 6.2. NMMI reserves the right to require a physician's statement at any time regarding an employee's illness or injury. Supervisors may also request physician's statements for sick leave used for pre-scheduled doctor's appointments or to care for an ill or injured family member. If the request for sick leave is due to an employee's own illness, the supervisor may request documentation certifying whether or not the employee is physically able to return to work, the date the condition commenced, and the expected duration of the condition. If the request for sick leave is to care for an immediate family member, the supervisor may request documentation signifying the employee must be off to care for that family member and the expected duration. NMMI may also request a second medical opinion at NMMI's expense. Medical information is confidential and will only be communicated on a need-to-know basis.
 - 6.2.1. NMMI may refuse to pay sick leave if it is determined that the claim for sick leave was fraudulent and may take disciplinary action for sick leave abuse.

7. Record Keeping

- 7.1. A record of both annual leave and sick leave is maintained on each employee. The supervisor or department head is responsible to advise the Human Resources Office on a monthly basis, of absences and to make certain that the reporting is correct, utilizing forms provided by the Human Resources Office.
- 7.2. A report of accrued sick leave will be provided to each employee on a monthly basis.

7.03 OTHER LEAVE

*Subject to Change Without Notice
Authorized by Regents' Policy 9
"Responsibility of the President/Superintendent of NMMI"*

1. General

Annual leave, sick leave, military leave, and holidays are paid leaves that are described in other Human Resources Policies and Procedures. This policy addresses all other types of leave for employees. Employees must notify their supervisor as early as possible regarding their request for leave with or without pay. They should obtain approval prior to leaving the work area during their shift. Unusual circumstances that preclude requesting permission will be taken into consideration by supervisors.

Only regular employees, classified as working thirty (30) or more hours per week are eligible to receive leave with pay.

2. Jury Duty

Employees called for jury duty will not be charged annual leave for those times actually on jury duty.

3. Personal Leave

3.1. There are times when short-term emergencies or other personal concerns that are of an urgent or serious nature that may require an employee's absence from work. It remains within the judgment of the supervisor whether such absences will be charged to annual leave.

3.2. Death in Family/ Bereavement

Eligible employees receive paid leave for an absence due to a death in the employee's immediate family, up to a maximum of three (3) working days. For the purposes of this policy, immediate family, is defined to include the employee's spouse or domestic partner, children, parents and present parents-in-law, grandchildren, grandparents, and siblings. Annual leave may be used to extend the family bereavement period if approved by management. In the case of the death of a family member that falls outside this definition or the death of a close friend, supervisors and managers are encouraged to allow the employee to take annual leave in the same manner as bereavement leave would normally be allowed.

4. Marriage

Time off to be married will be charged to annual leave.

5. Voting

Time off will be granted to vote, providing the polling places are not open at least two (2) hours before or after an employee's scheduled workday. This policy does not apply to employees whose daily work schedule either begins *more than* two (2) hours after the polls open or ends *at least* three (3) hours before the polls close.

6. Abandonment of Position

Normally an unauthorized absence in excess of three (3) consecutive working days will be considered as an abandonment of position.

7.04 FAMILY AND MEDICAL LEAVE

*Subject to Change Without Notice
Authorized by Regents' Policy 9
"Responsibility of the President/Superintendent of NMMI"*

1. General

In compliance with the federal Family and Medical Leave Act (FMLA), the Institute provides eligible employees up to twelve (12) weeks of job-protected leave within a twelve (12) month period for eligible family and medical reasons and/or up to twenty-six (26) weeks for Military Family Leave subject to the conditions outlined in Section 4.5 herein. This leave is hereafter referred to as FMLA leave. NMMI will comply with all provisions of the Act for eligible employees. FMLA leave is job protected leave that means the employee's department will reinstate the employee returning from FMLA leave to the same or equivalent position with equivalent pay, benefits, and other employment terms and conditions. It is illegal for any employee to interfere with, restrain, or deny any right provided by the FMLA to an eligible employee or to discriminate against an employee for requesting FMLA leave. This policy outlines the conditions under which an employee may request FMLA leave.

2. Eligible Employees

To be eligible for FMLA leave, an employee must:

- 2.1. have been employed for at least twelve (12) months in total in the last seven (7) years, and
- 2.2. have worked at least one thousand two-hundred fifty (1,250) hours during the twelve (12) month period preceding the start of the leave.

Any employee, including a temporary or on-call employee, who meets the above criteria would be eligible for FMLA leave, subject to the provisions of this policy and in accordance with the Act.

3. Use of Other Leave Policies

Sick bank leave and worker's compensation leave used for FMLA qualifying medical conditions of either the employee or a qualified family member will run concurrently with the twelve (12) weeks of FMLA. For more information on Sick Bank leave and Workers' Compensation refer to Policies 6.01 and 6.06 respectively. An employee may elect, but is not required, to use accrued annual leave and/or sick before, after, or simultaneously with FMLA leave.

4. Events Eligible for FMLA Leave

Eligible employees may take FMLA leave up to a total of twelve (12) weeks within a twelve (12) month period for the reasons listed in Sections 4.1 thru 4.4 herein. Eligible employees may take up to twenty-six (26) weeks of FMLA leave for the reasons stated in Section 4.5 herein; however, this FMLA leave is reduced by any other FMLA leave

taken within the twelve (12) month period. The Institute defines the twelve (12) month period as a rolling twelve (12) month period measured backward from the date an employee uses any FMLA leave. The employee must provide required supporting documentation. Failure to provide requested documentation could lead to denial of the requested leave.

4.1. Birth, Adoption, or Foster Care

Eligible employees may take FMLA leave to care for a child upon birth or to care for a child placed with the employee for adoption or foster care. FMLA leave must conclude within twelve (12) months of the birth or placement. Employees may use annual leave before going on unpaid FMLA leave, but they are not required to exhaust their annual leave balances before requesting unpaid FMLA leave.

If both parents are employees of the Institute, FMLA leave taken to care for a child upon birth or to care for a child placed with the employees for adoption or foster care is limited to a combined total of twelve (12) weeks. FMLA leave taken for the serious health condition of the employee or child would not be subject to the combined limit.

4.2. FMLA Leave for Family Medical Conditions

Eligible employees may take FMLA leave to care for a member of an employee's immediate family who has a serious health condition as defined in Section 5 herein. For the purposes of FMLA leave immediate family includes children, spouse or domestic partner, parents, grandchildren, and siblings.

4.3. FMLA Leave for Employee's Medical Conditions

An eligible employee may take FMLA leave when the employee is unable to perform the functions of his or her position because of a serious health condition as defined in Section 5 herein.

4.4. Military Family Leave for Qualifying Exigency

Eligible employees are entitled to FMLA leave because of any qualifying exigency arising out of the fact that the spouse or domestic partner, son, daughter, or parent of the employee is on active duty, or has been notified of an impending call to active duty status, in support of a contingency operation.

4.4.1. Categories of qualifying exigencies are:

- Short-notice deployment
- Military events and related activities
- Childcare and school activities
- Financial and legal arrangements
- Counseling
- Rest and recuperation
- Post-deployment activities
- Additional activities not encompassed in the other categories, but agreed to by the supervisor and employee.

HR can provide further clarification regarding qualifying exigencies.

4.5. Military Family Medical Leave

Eligible employees who are family members of covered service members will be able to take up to twenty-six (26) weeks of FMLA leave in a single twelve (12)-month period to care for a covered service member who is unable to perform daily activities, or who has a serious illness or injury obtained in the line of duty while on active duty. Eligible family members include the spouse or domestic partner, parent, children or designated next of kin as defined in the Act. The supervisor should contact Human Resources Office for direction on designation of next of kin. The twenty-six (26) weeks allowed for this leave will be reduced for any FMLA leave taken for events listed in Sections 4.1 thru 4.4 herein.

5. **Serious Health Condition**

A serious health condition means an illness, injury, impairment, or physical/mental condition that results in an inability to work, attend school, or perform other regular daily activities and involves:

- any period of incapacity or treatment connected with inpatient care in a hospital, hospice, or residential medical care facility;

OR

- any period of incapacity requiring continuing treatment by a health care provider.

Treatment by a health care provider requires an in-person visit to a health care provider as defined under FMLA. The first in-person treatment visit must take place within seven (7) days of the first day of incapacity. A period of incapacity or treatment is defined as more than three (3) consecutive, full calendar days, and any subsequent treatment or period of incapacity relating to the same condition that also involves:

- Treatment two or more times within thirty (30) days of the first day of incapacity by a health care provider.
- Treatment by a health care provider on at least one occasion, which results in a regimen of continuing treatment under the supervision of the provider. This includes treatment for chronic conditions that require periodic visits of at least twice a year for treatment by a health care provider. Such conditions can occur over an extended period of time including recurring or episodic periods of incapacity.

Other examples of a serious health condition include, but are not limited to:

- pregnancy or prenatal care
- appendicitis, or
- permanent /long-term conditions or conditions requiring multiple treatments such as:
 - severe respiratory condition
 - emphysema
 - severe nervous disorder
 - injury caused by a serious accident on or off the job
 - back condition requiring extensive therapy or surgical procedures

Serious health conditions do not include short-term conditions such as a minor illness that lasts a few days, and surgical procedures that typically do not involve hospitalization and require only a brief recovery period. Contact Human Resources Office regarding extenuating circumstances.

6. Request for FMLA Leave

When the need is foreseeable, such as birth or adoption of a child or planned medical treatment, an employee should advise his or her supervisor thirty (30) days before the start of the leave period, or as soon as possible. When possible, the employee should make efforts to schedule leave so as not to disrupt Institute operations. When thirty (30) days advance notice is not possible, the employee must provide notice as soon as practicable, and generally must comply with normal call-in procedures.

7. Notice to Employees

Within five (5) business days of an employee's initial request for FMLA leave, the supervisor must provide the employee with a completed Notice of Eligibility and Rights and Responsibilities Form. The employee has fifteen (15) calendar days to provide appropriate documentation in support of FMLA leave. See the Notice of Eligibility and Rights and Responsibilities form for the type of documentation required. If the supervisor does not have sufficient supporting documentation, he or she may request further documentation from the employee before approving or denying FMLA leave. The employee must provide this documentation within seven (7) business days of the request for further documentation. After receiving the requested documentation, the supervisor must confirm or deny the FMLA leave within five (5) business days. Specific forms and letters for these purposes are available from HR. An employee is presumed eligible unless the supervisor notifies the employee of ineligibility.

8. Medical Certification

The Institute will require medical certification to support a request for FMLA leave for medical reasons using the form language approved by the US Department of Labor. Forms may be obtained from HR. The Institute may require a second medical opinion and periodic recertification at the Institute's expense. In cases of illness, the employee will be required to report periodically, as instructed by his or her supervisor, on his or her leave status and intentions to return to work.

8.1. Employee's Health

For the employee's own medical leave, the medical certification must include a statement that the employee is unable to perform the functions of his or her position.

8.2. Family Health

For leave to care for a seriously ill family member, the medical certification must include an estimate of the amount of time the employee is needed to provide care.

8.3. Intermittent Leave Schedule

If medically necessary for a serious health condition of the employee or his or her family member, leave may be taken on an intermittent or reduced leave schedule. If leave is requested on this basis, the Institute may require the employee to transfer temporarily to an alternate position that better accommodates recurring periods of absence or a part-time schedule, provided that the position has the equivalent pay and benefits. The medical certification for intermittent leave or leave on a reduced schedule for planned medical treatment, must include the dates on which treatment is expected to be given and the duration of such treatment. The supervisor and employee must agree on the employee's normal schedule or average hours worked each week and document the agreement in writing.

9. Return to Work

An employee returning to work following a leave of absence due to his or her own serious health condition must submit a physician's statement certifying that the employee can return to work and can perform the essential functions of the job, with or without reasonable accommodations. The Institute may request the employee provide the physician's statement up to five (5) days in advance of the employee's anticipated return date.

9.1. Reinstatement of Employee

The employee's department must reinstate the employee returning from FMLA leave, within the approved leave period, to the same or equivalent position with equivalent pay, benefits, and other employment terms and conditions. However, an employee on FMLA leave does not have any greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the FMLA leave period. An employee has no right to reinstatement if the employee would not have otherwise been employed at the time of the request for reinstatement. Leave beyond twelve (12) weeks may be granted without pay, however, the employee's right to return to his or her position or an equivalent position is not guaranteed.

9.2. Failure to Return

If an employee fails to return within three (3) work days after an approved leave, including any approved extensions, the employee will be considered to have resigned. Refer to Section 4.07 Separation of Employment.

10. Benefits Coverage While on FMLA Leave

While an employee is on FMLA leave, the status of various Institute-sponsored benefit programs will be as follows:

10.1. Group Insurance Benefits

The Institute will continue the employee's group insurance benefits during the period that the employee is on FMLA leave. If the leave is unpaid, the Institute will bill the employee for that portion of the premium normally withheld from the employee's paycheck.

10.2. Retirement

The Institute does not pay the employer portion of the retirement plan during the period that the employee is on unpaid FMLA leave. The period that the employee is on unpaid FMLA leave does not count as earned service time for retirement formula calculations.

10.3. Annual and Sick Leave

The employee will not accrue annual and sick leave during the period that the employee is on unpaid FMLA leave.

10.4. Holidays

For purposes of determining the amount of leave used by an employee, the fact that a holiday may occur within a week taken as FMLA leave has no effect; the week is counted as a full week of FMLA leave. However, if an employee is using FMLA leave in increments of less than one (1) week, the holiday will not count against the employee's entitlement unless the employee was otherwise scheduled and expected to work during the holiday. During the winter break when the Institute is closed for more than one (1) week, the time will not count against the employee's entitlement unless the employee would otherwise have been scheduled and expected to work during winter break. Employees on unpaid FMLA leave are not eligible for holiday pay.

10.5. Dependent Education Scholarship

Dependents of employees who were participants in the Dependent Education Scholarship Program before the employee began FMLA leave can continue in the program while the employee is on FMLA leave as long as the dependent remains eligible.

11. Record Keeping Requirements

The Human Resources Office will retain all documentation pertaining to FMLA leave requests for three (3) years. The documentation must include the following:

- 11.1. Dates of FMLA leave taken by employees. Leave must be designated as FMLA leave. If FMLA leave is taken in increments of less than one (1) full day, the hours of the leave must be recorded.
- 11.2. Copies of employee notices of leave furnished to the employer under FMLA and copies of all required general and specific written notices given to employees.
- 11.3. Records of any dispute between the employer and an eligible employee regarding designation of leave as FMLA leave.

12. Confidentiality of Medical Records

NMMI must maintain records and documents relating to medical certifications, re-certifications, or medical histories of employees or employees' family members in separate files and treat them as confidential medical records. Supervisors and managers may be informed regarding necessary restrictions on the work and necessary accommodations. First aid and safety personnel may be informed if a medical condition might require emergency treatment. Government officials shall be provided relevant information upon request.

7.05 OFFICE HOURS AND OFFICIAL HOLIDAYS

*Subject to Change Without Notice
Authorized by Regents' Policy 9
"Responsibility of the President/Superintendent of NMMI"*

1. Faculty Office Hours

Faculty members will be present and available to cadets during the entire official dates of every academic semester: for fall—from the date of opening programs for faculty/staff through the date final grades are due; for spring—from the January return date listed as a note on the academic calendar through the date final grades are due. A faculty member is responsible for informing the department head prior to being absent from campus for the purpose of out-of-city or out-of-state travel.

Each faculty member is responsible to have office hours clearly posted and to be present during those times. Each faculty member is expected to meet classes as scheduled or to notify the department head in advance if it is necessary to miss classes. In case of illness, the general practice is for another member of the department to substitute until the faculty member returns. However, the faculty member is responsible for informing the department head of absence from classes for any reason. Faculty should refer to the Faculty Handbook for applicable leave policies and procedures.

2. Administrative Office Hours

All administrative offices are open from 0730 to 1630 each weekday with the exception of official holidays. (Some offices close from 12 noon to 1 p.m. for lunch.) All faculty and administrative offices are closed on Saturday and Sunday except on special occasions. In the event of adverse or inclement weather, the President's/Superintendent's office will provide appropriate information to local radio stations and inform essential personnel of the work schedule. Under extreme conditions other than adverse weather, the President/Superintendent in conjunction with appropriate staff, will exercise independent judgment in determining the necessity to remain open consistent with the requirement to maintain essential services. Certain essential employees may be required to remain at work during these times to provide for the safety and security of the NMMI's employees and physical environment.

3. Administrative Holidays

- 3.1. During the absence of cadets, NMMI business hours will be 0730-1530. When the cadets are on campus, NMMI will observe business hours from 0730-1630.
- 3.2. NMMI acknowledges the need to observe traditional holidays, and academic scheduling and energy conservation necessitate the adjustment of holiday observances. The following are official NMMI holidays:
 - Labor Day- Specific dates issued annually by memo
 - Veterans' Day - Specific dates issued annually by memo

- Thanksgiving - Specific dates issued annually by memo
- Christmas – Specific dates issued annually by memo
- New Year – Specific dates issued annually by memo
- Presidents’ Day - Specific dates issued annually by memo
- Martin Luther King Day – Specific dates issued annually by memo
- Good Friday – Specific dates issued annually by memo
- Spring Break – Limited business hours
- Memorial Day – Offices closed
- Independence Day – Offices closed

The following holidays are recognized by appropriate activities, but NMMI does not close: Columbus Day, Martin Luther King Day

3.3. Non-Recognition of Certain National Holidays

The unique nature of NMMI as a boarding school does not permit days off in recognition of all national holidays. Declaring non-work days extending around the Thanksgiving, Christmas, and New Year holidays when the cadets are absent from campus, compensates for such time. These days will be prescribed at the beginning of each academic year by memorandum specifying the days off that will not be charged to annual leave.

7.06 OVERTIME AND COMPENSATORY TIME CONSIDERATIONS

*Subject to Change Without Notice
Authorized by Regents' Policy 9
"Responsibility of the President/Superintendent of NMMI"*

1. General

The Fair Labor Standards Act (FLSA) requires that nonexempt employees be paid overtime pay for all hours considered time worked. Overtime is time worked, exclusive of meal breaks, in excess of forty (40) hours in a standard work period of seven (7) consecutive days. Alternative work periods are allowed by the FLSA. NMMI discourages overtime and normally, supervisors arrange workloads and work schedules so that an employee can complete his or her duties and responsibilities in a forty (40) hour workweek.

2. Overtime Pay

A supervisor must authorize overtime before the start of the overtime work. An employee who refuses to work overtime or who works unauthorized overtime may be subject to disciplinary actions. Each supervisor will be cognizant of the amount of overtime paid to hourly employees. When a nonexempt employee works authorized overtime, he or she is paid at one and a half (1-1/2) times the employee's regular rate of pay. If the supervisor and employee both agree in writing, a nonexempt employee may be granted compensatory time off in lieu of overtime pay. The compensatory time must be used within the current workweek to minimize the need to pay overtime. The overtime rate will be paid at double time on official NMMI holiday. Overtime periods will be recorded in quarterly hour segments.

Faculty and Professional staff members (exempt employees) are not paid overtime.

7.07 MILITARY LEAVE

*Subject to Change Without Notice
Authorized by Regents' Policy 9
"Responsibility of the President/Superintendent of NMMI"*

1. General

New Mexico Military Institute grants military leave of absence to regular employees during the time they are on active duty in:

- The Armed Forces of the United States, defined to include the Army, Navy, Air Force, Marine Corps, Coast Guard, and their reserve components
- The New Mexico National Guard and New Mexico State Guard
- The U.S. Public Health Service, U.S. Coast and Geodetic Survey, and their reserve components
- The state defense force to attend officially authorized training or instruction courses
- The civil air patrol performing search and rescue missions.

2. Eligible Employees

Regular full-time and part-time employees are covered under this policy.

3. Military Leave with Pay

The following types of active military duty qualify for fifteen (15) paid workdays of military leave per federal fiscal year.

- Annual Duty for Training by National Guard or Reserve Unit.
- When an employee's unit is activated due to a local emergency declared by either the President of the United States (for National Guard or Reserve units in the U. S. Armed Forces) or the Governor of New Mexico (for N.M. National Guard or N.M. State Guard units).
- When the President of the United States declares a national emergency and activates military units.

Such military leave is paid at the employee's straight-time rate of pay. Once the fifteen (15) workday period is used, the employee is on leave without pay for any remaining absence.

4. Military Leave Without Pay

An unpaid military leave of absence may also be granted for the following reasons.

- Voluntary active duty for a special training purpose, such as attending an Armed Forces School.
- Required active duty as part of a Reserve or ROTC obligation. Normally, such tours of duty are no more than two (2) years in duration.
- Voluntary enlistment for military service. Normally, a tour of three (3) years or more of active duty is required.

Such leave may be charged to accrued vacation leave.

5. Request for a Military Leave of Absence

To request a military leave of absence, the employee or his or her designated representative shall give the employee's supervisor a copy of official military orders or other evidence showing that the employee is entering active military duty.

6. Benefits While on Military Leave of Absence

Although activated employees and dependents will be eligible for health care through the military, those who choose to continue the health insurance through the NMMI may do so, and NMMI will continue its employer contribution toward the premiums. Upon reinstatement after the tour of duty, employees and dependents who chose to temporarily dis-enroll from a NMMI health insurance program while the employee was on military duty are permitted to re-enroll.

7. Reinstatement

An employee returning from a military leave of absence not exceeding five (5) years of cumulative service is reinstated into his or her original position, or to a position with the same status and pay rate, with no loss of seniority, as provided by the Uniformed Services Employment and Reemployment Rights Act (USERRA). The employee who is reemployed under USERRA shall be treated as not having incurred a break in service and all raises that would have been granted the employee during the leave of absence shall apply.

An employee on military leave of absence will be reinstated to his/her original position or to a position of like seniority, status and pay provided:

- 7.1 NMMI's circumstances have not changed so as to make it impossible or unreasonable.
- 7.2 Employee is released from active duty under honorable conditions, and
- 7.3 Employee is still qualified to perform the duties of such position.

Employee on military leave of absence should not lose any seniority and should be entitled to participate in insurance and benefits consistent with policies for employees on leave of absence.

Employee makes application for reinstatement to the Human Resources Director within 90 calendar days after release from national emergency, obligated or enlisted service, or from hospitalization continuing after release for not more than one (1) year, or within

six (6) working days after release from annual duty for training, special training, or local emergency service.

If the duration of the tour of active duty is uncertain or is of an extended period, such as in a national emergency, the department may choose to fill the temporary vacancy with a regular employee. However, reinstatement of the returning veteran to the same or similar job may require the relocation or layoff of the new employee. In such cases, the department must inform the new employee in writing, at the point of hiring, of the potential consequence and the temporary nature of the employee's position.

8. Record Keeping

The Human Resources Office will maintain supporting documentation for the military leave and record both paid and unpaid military leave granted to its employees.

7.08 INCLEMENT WEATHER

*Subject to Change Without Notice
Authorized by Regents' Policy 9
"Responsibility of the President/Superintendent of NMMI"*

1. General

NMMI is a full-time boarding school and employees are expected to be present and available during the entire official dates of every academic semester and during all normal working hours.

Weather delays in Roswell are infrequent and usually the weather improves in a relatively short time allowing all employees to get to work or home safely and in a reasonable amount of time. Absences or late arrivals caused by inclement weather will not count against an employee's attendance record.

2. Work Schedules

During periods of inclement weather, employees are expected to be at work as scheduled, but should take reasonable and safe measures in attempting to meet their employment obligations. An employee's ability to keep regular hours due to inclement weather or hazardous driving conditions may be adversely affected by such things as the employee's own medical or physical limitations, where the employee lives, availability of transportation, and family care responsibilities. Supervisors are expected to be flexible in these situations in accordance with the business needs of the organization and the reasonable health and safety needs of employees.

2.1. Hazardous Driving Conditions

If the weather creates hazardous driving conditions, employees will be encouraged to remain at NMMI or their home until the driving conditions improve. Essential personnel will ensure that all cadet requirements are maintained, i.e., heat, light, food, etc.

2.2. Instructions for Reporting to Work

If the weather conditions deteriorate during the evening or early morning during the week, essential employees are expected to make arrangements to get to work and all other employees are instructed to check e-mail or tune to local radio and TV stations for further information and instructions on when to report for work. If a weather emergency is declared for the Roswell area, NMMI will be calling in "essential personnel only" for the period of the emergency.

2.3. Essential Personnel

Essential personnel are those employees who are required to provide health and welfare services to the Corps of Cadets. These personnel or their designees will report to work:

- Facilities Staff – as directed by the Director of Facilities
- Commandant’s Staff – as directed by the Commandant of Cadets
- Dining Hall Staff – as directed by the Dining Hall Director
- Infirmary Staff
- Cadet Store – Cadet Store Manager
- Admissions/Marketing Office – Director of Admissions
- Athletic Office –Director of Athletics
- Business Office – Chief Financial Officer
- Dean of Academics, Associate Dean, Division Heads
- President/Superintendent’s Office – President/Superintendent, Chief of Staff

Should essential personnel require specific individuals to report for work, they will inquire concerning their ability to safely proceed to work.

3. Absence from Work

During periods of inclement weather both employees and supervisors should keep three (3) major goals in mind:

- 3.1. the need for NMMI to conduct business on a regular basis
- 3.2. the safety and well-being of cadets
- 3.3. the safety and well-being of employees

When an employee is unable to be at work due to inclement weather, the employee must notify his/her supervisor, explain the reason for the absence, and provide an estimated time of arrival at work. If the employee’s individual situation permits, the employee should attempt to get to work when possible. In most cases, driving conditions improve later in the morning, enabling the employee to get to work safely. Also, during periods of inclement weather, an employee may need to leave early to avoid hazardous driving conditions, which may occur late in the day as temperatures drop. If operations permit, supervisors should attempt to accommodate the needs of the employee. These decisions should be made on an individual basis, taking into consideration the employee’s own medical or physical limitations, where the employee lives, availability of transportation, and family care responsibilities.

4. NMMI Closure

On those rare occasions when NMMI is declared closed, the time off will be reported as paid administrative leave and shall not be considered as time worked for overtime compensation purposes. Employees on previously approved sick or annual leave, or on a shift assignment not affected by the closure, are not eligible for the paid administrative leave.

Any employees required by their supervisors to work during a closure will be paid for hours worked and shall be granted additional compensatory time off for actual hours worked during the time of closure. Compensatory time taken in such cases shall not be considered as time worked for overtime compensation purposes. Critical activities, such as Facilities, Infirmary, Dining Hall and cadet living areas, will remain open when NMMI is closed. The President/Superintendent, Chief of Staff, Commandant of Cadets or Dean of Academics and Chief Financial Officer will determine critical activities. Directors of critical activities will prepare contingency plans, keep them updated, and communicate such plans to all their employees. An employee should direct any questions about job responsibility to his/her supervisor. The administrator of the unit will initiate necessary actions to provide emergency meals and sleeping arrangements, should conditions require.

SECTION 8: OTHER



POLICY	POLICY NUMBER
<u>Contract Signature, Authority and Review</u>	8.01
<u>Volunteer/Chaperone Policy</u>	8.02
<u>Employee Advisory Committee</u>	8.03

8.01 CONTRACTS SIGNATURE AND AUTHORITY

*Subject to Change Without Notice
Authorized by NMMI Regents' Policy 9
"Responsibility of the President/Superintendent of NMMI"*

1. General

This policy designates who, within NMMI, is authorized to sign contracts on behalf of the Institute. All previous delegations or communications on this subject are superseded. Contracts may be signed on behalf of the Institute only by:

- 1.1. A person in a position specifically authorized by the NMMI Board of Regents.
- 1.2. The President/Superintendent, Chief Financial Officer, Assistant Chief Financial Officer, as specified herein.

2. Contract

For the purposes of this policy, a "contract" is defined as a written agreement between two (2) parties intended to have legal effect, including Memorandums of Understanding and Letters of Understanding, in one of the following forms listed below.

- 2.1 Documents signed by NMMI and another party.
- 2.2 Offers signed by NMMI.
- 2.3 Certain pre-approved NMMI forms signed by others.
- 2.4 Contract forms promulgated by others signed by NMMI.

3. Signature Authority and Delegation

The Institute has a centralized system of signature authority. The Regents have delegated general signature authority to the President, who has delegated portions of that authority to the Chief Financial Officer and Assistant Chief Financial Officer under this Policy.

All delegations shall be to a position within the Institute and not to the individual holding the position at the time of the delegation. When there is turnover in a position, the new individual has the authority of the previous incumbent. Persons in an acting or interim position also have the general signature authority of that position.

4. Other specific delegations are listed as follows:

4.1. Operations

The Chief Financial Officer and Assistant Chief Financial Officer have authority to sign all contracts, except those reserved to the President or to the Regents. Signature of employment contracts for President/Superintendent and Internal Auditor is reserved to the President of the Board of Regents.

4.2. Employment Contracts

4.2.1. Annual Employment Contracts

The Chief Financial Officer and the President/Superintendent have authority to sign employment contracts and offers for staff and faculty employment offers and contracts.

4.2.2. Student Employment

The Financial Aid Director and the Human Resources Director has authority to sign contracts for student employment, including work study.

5. **Contracts Affecting Students**

5.1. Financial Aid and Loans to Students

The Director of Financial Aid has authority to sign applications and proposals to outside funding entities, short term emergency promissory notes to students, and other agreements relating to financial aid programs administered by Student Financial Aid. The Director of Financial Aid has authority to sign contracts with outside funding entities and other loans to students.

6. **Academic Matters**

The Dean for Academic Affairs has authority to sign contracts concerning academic matters not involving the receipt or expenditure of funds or Memorandums of Understanding that must be approved by the Board of Regents.

7. **Real Estate Contracts**

The Chief Financial Officer and Assistant Chief Financial Officer are authorized to sign all real estate contracts.

8. **Construction Contracts with External Contractors and Contracts for Purchase of Professional Services Related to Architectural Services, External Auditing Services, Debt Financing, and Investment Management**

The Chief Financial Officer and Assistant Chief Financial Officer are authorized to sign all construction contracts with external contractors and contracts for purchase of professional services related to architectural services, external auditing services, debt financing, and investment management.

9. **Contract Review**

Each contract must be carefully reviewed by the Institute employee initiating the contract and the authorized signature designee. The Institute administrator with signature authority may designate additional review requirements for particular types of contracts, such as release of liability.

10. Institute Employee Initiating the Contract

The person initiating the contract for NMMI is responsible for reading the contract entirely and determining that:

- the contract language accurately reflects the current state of negotiations;
- the contract meets programmatic and Institute mission requirements;
- the contract represents a good deal for the Institute;
- he or she can ensure compliance with the obligations it places on the Institute;
- risk management concerns have been reasonably addressed;
- and the contract is sufficiently clear and consistent

After being satisfied with the form and content of the contract, the initiating employee must shall submit the contract along with any other necessary documents where required, to the Chief Financial Officer or Assistant Chief Financial Officer for processing. The initiating department should submit a purchase order after the contract is signed.

11. Compliance

No Institute employee may sign (execute) any contract purporting to be on behalf of NMMI, unless delegated signature authority to do so, pursuant to this policy. Any employee who violates this section may be subject to disciplinary action. No contract signed by a person without signature authority delegated by the Board of Regents or pursuant to this policy shall be binding on NMMI.

12. Records Retention

Each administrator who initiates a contract shall keep the signed contract on file or designate where the signed contract should be kept. The contract will be kept on file for at least the period of the contract plus three (3) years or the period of time required by law, whichever is longer. The Office of the Legal Advisor is the repository for all Memorandums of Understanding and Joint Powers Agreements.

8.02 VOLUNTEER/CHAPERONE POLICY

*Subject to Change Without Notice
Authorized by NMMI Regents' Policy 9
"Responsibility of the President/Superintendent of NMMI"*

1. General

A non-employee volunteer/chaperone is defined as an individual who renders services on behalf of NMMI on the campus or at a school-sponsored or school-related activity on or off campus without compensation, remuneration or other consideration beyond reimbursement for room, meal, travel, etc. expenses directly related to the event. The purpose of volunteers/ chaperones is to meet the needs of NMMI and its cadets rather than to meet the needs of volunteers/chaperones.

NMMI employees who wish to serve as volunteers/chaperones must be exempt staff. Exceptions to this requirement must be approved by the Chief Financial Officer in writing since nonexempt staff would be subject to overtime pay.

2. Procedure for Approval

The NMMI employee responsible for organizing an event/ activity requiring volunteer(s)/chaperone(s) will submit a written request for approval of individuals to be considered through their chain of command for approval to the Chief Financial Officer. The request will contain:

- Detailed description of the activity
- Detailed description of duties and responsibilities
- Responsible NMMI employee
- Purpose of the work
- Dates of service
- Names of volunteer(s)/chaperone(s)

Prior to approval, non-employee volunteers/chaperones must submit to a background check. They must also have received training as prescribed by the Commandant of Cadets if duties include contact with cadets. Training will include at a minimum:

- An orientation of New Mexico Military Institute
- Discussion of NMMI rules and expectations for cadets and volunteer/chaperone
- Issue of confidentiality

3. Volunteer/Chaperone Duties/Responsibilities

Volunteers/Chaperones of cadets shall adhere to the following:

- Volunteers/Chaperones shall actively participate with the group in all aspects of the trip or function including, but not limited to transportation, accommodations, meal arrangements, entertainment, etc.

- The use of personal vehicles by volunteers/chaperones or cadets is prohibited.
- Use of alcohol, tobacco or illegal substances by volunteers/chaperones or cadets is prohibited.
- Volunteers/Chaperones shall take all necessary steps to ensure cadet safety and proper conduct.
- Volunteers/Chaperones shall report violations and/or specific problems to the NMMI employee sponsor immediately.
- Family members of volunteers/chaperones that have not completed the request of paragraph (2) are not allowed to attend any of the school sponsored functions for which the adult is a volunteer/chaperone.

4. Management of Volunteers/Chaperones

The NMMI employee requesting approval of volunteers/ chaperones is responsible for their screening, orientation/ training, supervision and evaluation.

Volunteers/Chaperones complement the work of paid faculty and staff; they do not substitute for it.

Volunteers/Chaperones serve at the pleasure of NMMI.

5. NMMI Reserves the Rights to Deny Volunteers/Chaperones

NMMI reserves the right to deny any volunteer/chaperone opportunity to act on behalf of or in the scope of any New Mexico Military Institute duty, event or activity.

6. Workers' Compensation Coverage

Workers' compensation coverage is not available or provided for volunteers/chaperones.

8.03 EMPLOYEE ADVISORY COMMITTEE

*Subject to Change Without Notice
Authorized by NMMI Regents' Policy 9
"Responsibility of the President/Superintendent of NMMI"*

1. General

The Employee Advisory Council (EAC) represents staff employees of New Mexico Military Institute and promotes free and open participation in matters of concern to NMMI. It is an elected body of staff members representing job grades and work areas. The purpose of the EAC is to advise the President/

Superintendent to provide support to all personnel, as well as to sustain and enhance excellence at NMMI.

2. Objective

The following are specific objectives of the EAC; however, they should not be considered all-inclusive:

- 2.1. Develop programs and activities promoting professional and personal growth, and advancement
- 2.2. Represent staff in the planning of improved workplace conditions and other means of enhancing and promoting productivity
- 2.3. Facilitate communications among staff, faculty, and cadets
- 2.4. Provide a forum for the discussion of the general staff welfare
- 2.5. Provide a resource for participation in major decisions of NMMI as they affect NMMI staff
- 2.6. Maintain liaisons with officially recognized representative groups on campus.

3. Elections

Elections are held annually in the spring with one-half (1/2) of the EAC elected each year. In the event of a vacancy, the Section or Division Head shall name a replacement from among the staff members in the vacant grade or department. Replacements shall serve for the remainder of the elected term to which they were appointed. Officers will be elected by secret ballot by the committee. Elections shall be held within the Departments as listed in 3.2 below.

3.1. Membership

Regular full-time and part-time staff employees of NMMI are eligible for election to the EAC. Elected members shall serve a two (2) year term. All employees are encouraged to participate in EAC and other NMMI governance activities, either through elected service on the EAC, or its committees.

3.2. Composition of Committee

The committee shall consist of a representative from each of the following areas:

- Non-Faculty Academic Staff
- Admissions Staff
- Athletic Department
- Auxiliary Staff
- Business Office
- Commandant's Staff
- Information Services
- Facilities
- Financial Aid
- President's/Superintendent's Staff

4. Officers

The EAC shall elect from its membership a President, Vice-President and Secretary. Elections will be held by secret ballot and be determined by simple majority.

4.1. Duties

It shall be the duty of the President to preside at all general meetings of the EAC, to provide an agenda for the meetings and to serve as Staff Representative. No President shall serve successive terms. The President, in consultation with members, shall set the agenda for the EAC meetings.

It shall be the duty of the Vice-President to preside in the absence of the President.

It shall be the duty of the Secretary to inform the members of the time and place of each meeting, to publish the agenda for each meeting in advance of the meeting, to record minutes of each meeting and to arrange for distribution of the minutes to the President of the EAC, Chief Financial Officer, Assistant Vice President and the President/Superintendent.

4.2. Action and Meetings

Actions recommended by the EAC are contained in the minutes that shall be forwarded to the appropriate Vice President for comment and to the Assistant Chief Financial Officer and the President/Superintendent. The President/Superintendent shall indicate approval or disapproval of these actions. Upon completion of this process, minutes of the EAC shall be considered a matter of open record and policy when approved by the President/ Superintendent and where required by the Board of Regents. The official repository of EAC minutes is the President/Superintendent's office.

For those actions disapproved, the President/ Superintendent will furnish his objection either orally or in writing. If, after reconsideration, two thirds of the EAC votes for action with any necessary revisions, it shall be returned to the President/Superintendent for reconsideration.

5. Release Time

NMMI recognizes that service on the EAC and on EAC committees will take employees away from their work for brief periods of time. The time should be minimal. Meetings will be scheduled no more often than once each month and the total time to work on EAC business should not exceed three (3) hours per month. These release times are the average for a given month. The EAC and NMMI recognize that in some months the demands of service may be greater than is required in other months, and supervisors are encouraged to make provisions for these instances.

5.1. Exceptions to Release Time

Staff members serving in any of the capacities in Section 5 herein, along with their supervisors, recognize that there will be rare occasions when the demands of their workplace are such that they may not be able to physically attend EAC or committee meetings.

1 SECTION 9: ACKNOWLEDGMENT

I acknowledge that I have received a copy of the NMMI Employment Policies, and I do commit to read and follow these policies.

I am aware that if, at any time, I have questions regarding NMMI policies I should direct them to my manager or the Human Resources Office.

I know that NMMI policies and other related documents do not form a contract of employment and are not a guarantee by NMMI of the conditions and benefits that are described within them. Nevertheless, the provisions of such NMMI policies are incorporated into the acknowledgment, and I agree that I shall abide by its provisions.

I also am aware that NMMI, at any time, may on reasonable notice, change, add to, or delete from the provisions of the company policies.

Employee's Printed Name

Position

Employee's Signature

Date

APPENDICES