



**NEW MEXICO JUNIOR COLLEGE  
EMPLOYEE HANDBOOK**

Updated and Adopted by  
New Mexico Junior College Board  
July 1, 2019

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## GLOSSARY

**Classification System**--an ordering of different positions based on salary range.

**Contingent Employee**--a person employed for a position for less than one (1) year who receives no benefits.

**Conversion**--a change in an individual's status from one type of appointment to another (e.g., move from contingent to full-time).

**Demotion**--a move to a lower salary range under the same salary schedule usually resulting in a reduction in pay.

**Dismissal**--the possible consequence of failure to respond to corrective discipline or the result of a violation of such a serious nature to warrant immediate termination of employment.

**Employee at Will**--an individual who is not employed under an employment contract but who may be dismissed or quit at any time with or without cause.

**Faculty**--a nine (9) and/or ten (10) month employee who is not eligible for overtime or compensatory time compensation. Faculty employees receive annual employment contracts.

**Family Members**--Parents, brother, sister, grandparents, grandchildren, spouse's parents, or spouse's brother or sister.

**Full-time**--a position that requires at least forty (40) hours work per workweek or at least twenty-five (25) hours work per workweek for faculty teaching in the credit program.

**Grievance**--a formal request for hearing by an employee to appeal a decision that resulted in loss of pay due to suspension, dismissal or non-renewal of a contract.

**Hourly**--the status of an employee eligible for overtime pay.

**Immediate Family**--a spouse, children and any other legal dependent.

**New Mexico Junior College**--NMJC

**NMJC Board**--Board of Directors for New Mexico Junior College

**Over-time**--Work in excess of an hourly employee's regularly scheduled workweek (a minimum of 40 hours).

**Part-time**--a position requiring less than forty (40) hours work per workweek or less than twenty-five (25) hours work per workweek for faculty teaching in the credit program.

**Position**--an aggregate of duties and responsibilities.

**Posting**--advertising vacant positions to employees.

**President**--President of New Mexico Junior College

**Professional Employee**--a full or part-time supervisory or administrative employee who is not eligible for overtime or compensatory time compensation. Professional employees generally receive annual employment contracts.

**Promotion**--a change of an employee to a higher salary range which usually results in change in pay.

**Protected Class**--includes individuals determined to be eligible for protection by any anti-discrimination regulation or statute.

**Reassignment**--a change from one employment position to another without promotion or demotion.

**Reclassification**--a change in duties, responsibilities, qualifications, title and/or salary range of a position as a result of a job evaluation.

**Reduction in Force**--a personnel action that may be required due to lack of work, funds, or reorganization, resulting in termination or downward reclassification of a position.

**Regionally-Accredited Institution**--a post-secondary institution accredited by one of the following regional agencies: Middle States Association of Colleges and Schools; New England Association of Schools and Colleges; North Central Association of Colleges and Schools; Northwest Association of Schools and Colleges; Southern Association of Colleges and Schools and Western Association of Schools and Colleges.

**Registered Elector**--persons eligible to vote in a specific election or referendum.

**Reinstatement**--re-employment of a full-time employee to the same, lower or higher classified position.

**Resignation**--the voluntary separation from employment prior to retirement by an employee.

**Retired Employee**--any New Mexico Junior College employee who terminates employment, who, at the time of termination, is eligible to participate in-group benefits, and who qualifies for any retirement benefits under the New Mexico Educational Retirement Board.

**Safety Sensitive Position**--any employee who performs a task who could put himself/herself or any other person in bodily danger.

**Salaried**--the status of an employee not eligible for overtime pay.

**Salary Plan**--an ordering of salary ranges for job classifications.

**Seasonal Employee**--an employee usually employed for no more than six (6) months who receives no benefits.

**Sick Leave**--a leave with pay granted after accrual to eligible employees when personal illness, illness in the immediate family or legal quarantine keeps them from performing their duties.

**Spouse**--a husband or wife, as defined or recognized under state/federal law for purpose of marriage, including common law marriage in states where recognized.

**Supervisor**--an employee who is in charge of or exercises direction and control over other employees in the performance of his/her duties.

**Support/Maintenance Employee**--a full or part-time employee who is eligible for overtime or compensatory time. Support/maintenance employees do not usually receive an annual contract and are employees at will.

**Suspension**--a disciplinary action placing an employee on leave-without-pay status for a specified period of time.

**Termination**--the resignation, retirement, dismissal or death of an employee.

**Test**--a formal method by which an applicant's or employee's qualifications are assessed for employment or promotion.

**Transfer**--a lateral move from one job to another within the same salary range.

**Vacancy**--an authorized position not occupied by an incumbent, which has been approved to be filled by the appropriate designated authority.

**Verbal Warning**--verbal communication between an employee and supervisor identifying corrective action to be taken by an employee.

**Written Warning**--written communication between an employee and supervisor identifying corrective action to be taken by an employee.

**NEW MEXICO JUNIOR  
COLLEGE  
EMPLOYEE HANDBOOK**

The policies and practices contained in the *Employee Handbook* are applicable to all employees as indicated except: (i) the President; and (ii) as set forth in the contract of employment between the College and the employee. Conditions of employment of the President are contained in a separate contract between the President and the Board.

The purpose of written policies and practices is normally to provide a broad and uniform understanding of the manner in which individual employees of NMJC are to function in a team effort to attain desirable objectives. The *Employee Handbook* is a collection of policies and procedures that serves as a guideline for the NMJC. These policies and practices also provide the employee with guidance and NMJC Board expectations. The NMJC Board reserves the right to modify, amend, delete, clarify, apply and interpret its policies at its sole discretion.

NMJC policies and procedures, as well as benefits and services, are constantly under review. Changes may occur and become effective at various times of the year. To facilitate changes and updating on a timely basis, the *Employee Handbook* is updated, as needed, on the NMJC website. Each employee is responsible for reviewing updates to the *Employee Handbook* on the NMJC website.

I. Introduction: Where to Find Information about Employment with NMJC

A. The purpose of the *Employee Handbook* is twofold:

1. To assist a new employee in adjusting to his/her job on campus and;
2. To serve as an informational guide for employees on matters of employment and operational policies and employee benefits.

B. The administration of NMJC and the NMJC Board believe NMJC is a good place to work and it is hoped that each employee will be successful and happy in his/her job. Supervisors and other administrative personnel are always willing to help with any problem related to NMJC.

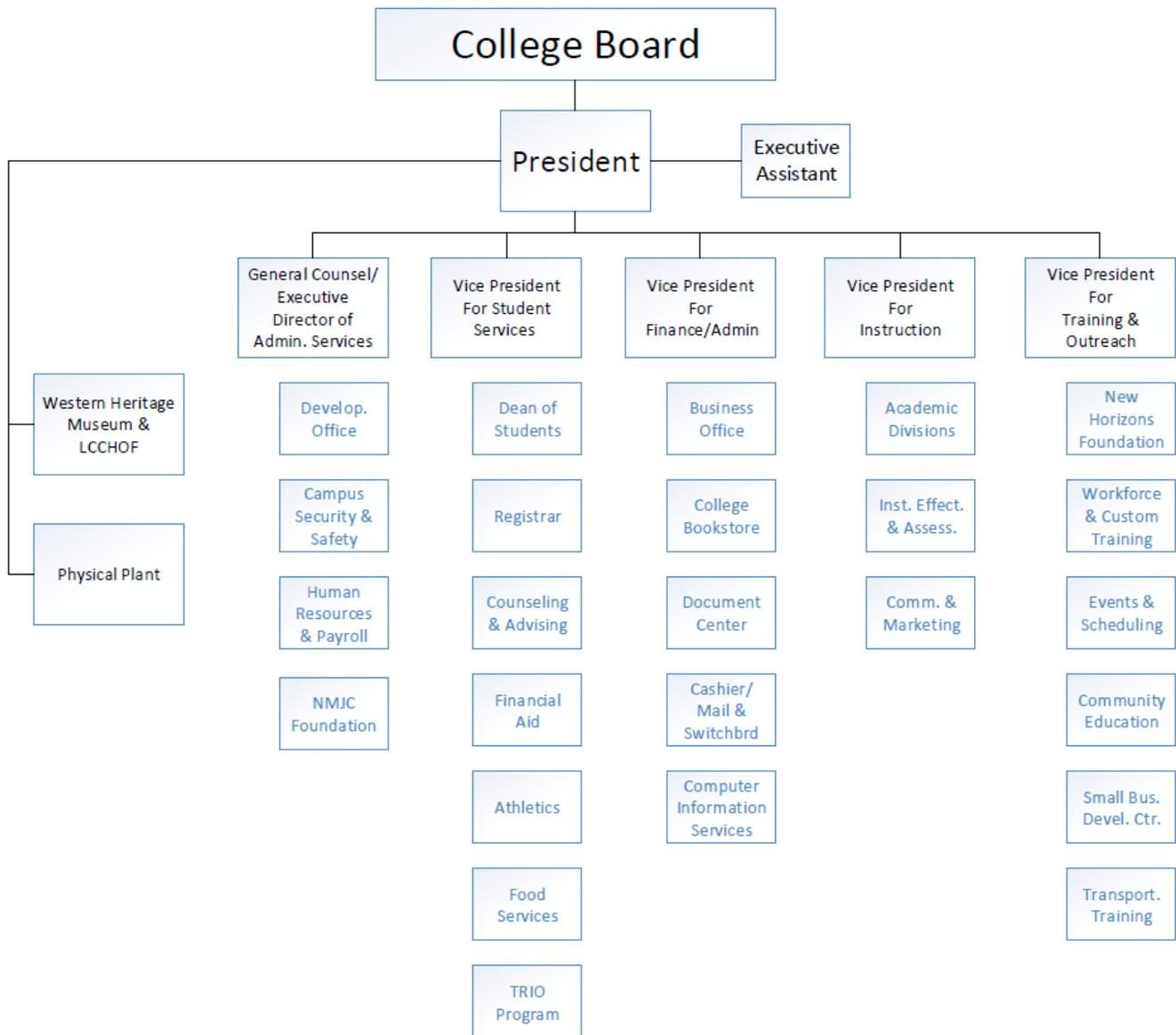
II. Responsibility to the Public

NMJC is supported by local and state tax revenues and exists to serve the people of the College's service area through education. Its success depends upon the kind of relations NMJC, as represented by its employees, has with the public. The public is made up of different groups including students, parents, alumni, visitors to NMJC and many others. All NMJC employees share in building and maintaining good relations with our constituency. NMJC shall be

judged not only by its graduates but also by the public's personal contact with employees through correspondence, telephone conversations and visits to NMJC. Your politeness and courtesies to the public on the NMJC campus will help NMJC perform its service in a positive way.

### III. Employees

- A. NMJC is committed to employing and retaining highly qualified individuals who are trained and skilled in the area of their appointed responsibility, who understand and support the basic characteristics of community college concepts, who understand the demographics of its service area, and who show a willingness to work in harmony and cooperation with others toward accomplishing its mission.
- B. NMJC is committed to providing a variety of support services. When feasible through its employees, NMJC shall cooperate with individuals, groups, organizations, businesses and agencies for the development and enhancement of support services that are available to NMJC's service area.
- C. Any questions on policies or practices contained in the *Employee Handbook* shall be directed to the Human Resources Office.



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SECTION: Administrative Duties of Employees

POLICY TOPIC: Interpretation of the Employee Handbook

Every effort has been made to make the Employee Handbook clear and understandable. However, in case of misunderstanding, ambiguity or lack of clarity, the determination is left to the President and the NMJC Board to interpret the meaning of the Employee Handbook.

NMJC Board recognizes that the Employee Handbook cannot answer all problems or questions that arise in the day-to-day operation of NMJC. In the interest of fairness and/or clarity, all suggestions or amendments to improve the Employee Handbook shall be submitted to the President and/or an ad hoc committee, appointed by the President who shall review the recommendation. Once the recommendation has been reviewed, it shall be forwarded to the NMJC Board for consideration and final action.

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SECTION: Administrative Duties of Employees

POLICY TOPIC: Amendment to the Employee Handbook

The Employee Handbook shall be amended, modified, deleted and any new policies shall be added from time to time, as the NMJC Board deems necessary. Such changes may be made during the contract year and shall take effect immediately upon approval of the NMJC Board.

NMJC is governed by a seven-member board elected from the NMJC District. The duties and responsibilities of the NMJC Board are as outlined and stated in the Community College Act, NMSA 1978 Section 21-13-1 through 21-13-25.

The NMJC Board evaluates proposals for the improvement of the NMJC and its educational program, studies present practices of operation, and in turn, approves policies to fit the needs of NMJC.

Members of the NMJC Board shall have authority only when acting as a board in session. The NMJC Board shall not be bound by any statement or action on the part of any individual member of the Board, except when such statement or action is in pursuance of specific instructions by the Board. The Board delegates to the President the responsibilities of administering and supervising the policies and procedures of NMJC.

The NMJC Board subscribes to the belief that its employees and students should contribute and assist in formulating policies and procedures for NMJC, subject to *r e v i e w* and *a p p r o v a l* by the NMJC Board of such recommendation. To implement this belief, ad hoc committees may be formulated. Appointments to NMJC committees shall be made by the President and will include the following: faculty, professional, support/maintenance employees and students, as appropriate. These appointments shall be made based upon individual preferences when possible. When members have been appointed, the President shall appoint a person to call the first committee meeting, at which time the committee shall elect a chairperson, a vice chairperson and a recorder. (Student appointments shall be made after the committees have been organized.) Each committee shall make reports, including recommendations, and after approval, committee minutes must be kept and submitted to the President on a regular basis. A list of committees is available through the President's office.

NMJC strives to provide all pertinent information that aids the student in formulating education and career plans and to encourage him/her to make the most of his/her opportunities and potential. To further this goal NMJC has a faculty-centered advising program.

The duties and responsibilities of the faculty advisor shall include, but are not limited to, the following:

- I. Serving as an advisor to students assigned as advisees.
- II. Keeping informed about these advisees with the assistance of NMJC counselors, financial assistance officer, registrar and appropriate dean or administrator.
- III. Maintaining up-to-date knowledge of the various career possibilities in their teaching fields.

All professional employees may be obligated to attend functions assigned by NMJC officials. Professional employees shall accept such appointments as a part of their professional responsibility. Responsibilities of professional employees sponsoring activities shall include:

- I. Giving guidance to the organizations of which they are a sponsor and planning with the officers any activity to be scheduled by the organization.
- II. Making certain that plans for the event in question conforms to general NMJC policy.
- III. Taking into consideration that projects shall not be undertaken that will consume an undue amount of time. Scholarships, standards, workload and the health and safety of students shall be taken into consideration before assigning students to an activity that shall make unusually heavy demands upon their time.
- IV. Delegating as much responsibility as possible to the students and making certain that students have completed responsibilities assigned to them.
- V. Ensuring, that in conjunction with public performances of any group, the sponsor is thoroughly aware of the content of the program and the manner of presentation.
- VI. Sponsors shall be present at all events scheduled by the organization for which they are the advisor. Sponsors shall always make certain that chaperones have been secured for scheduled dances or other similar occasions and other professional employees have been invited.
- VII. Organizational funds shall be administered through the NMJC Business Office. It shall be the sponsor's responsibility to requisition funds according to business office policies and purchasing procedures.

NMJC does not discriminate in its educational and employment policies and procedures based upon race, color, religion, sex (including pregnancy), sexual orientation, national origin, age, disability, ancestry, gender identity, spousal affiliation, genetic information, or protected veteran status or any other legally protected categories, classes or characteristics. Furthermore, NMJC will make reasonable accommodations for qualified individuals with known disabilities unless doing so would result in an undue hardship, health or safety concern.

For information concerning employment, please contact the Human Resources Office at (575) 492-2790. For information concerning Section 504 accessibility, contact the Special Needs Coordinator in the Counseling Department at (575) 492-2576.

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SECTION: Employment Procedures, Regulations, Policies and General Information

POLICY TOPIC: Appointment

A new employee shall complete all necessary forms in the Human Resources Office no later than his/her first day of employment.

Neither the provisions of the *Employee Handbook* nor the terms of the employment contract shall be construed to imply or guarantee the expectation of continued employment with NMJC. Contracts for professional and faculty employees shall not exceed one (1) year.

Support/maintenance employees are employees at will. An employee at will is an individual who is not employed under an employment contract but who may be dismissed or quit at any time with or without cause.

A relative is any member of an employee's immediate family (spouse, children, and any other legal dependent), parents, brothers, sisters and in-laws. Employment of relatives shall be subject to President's approval and the following conditions:

- I. NMJC Board member's immediate family members are prohibited from working for NMJC while the NMJC Board member is serving in that position.
- II. No family member of the President may be hired for employment without first obtaining approval of the NMJC Board.
- III. Relatives not holding supervisory authority or not having employing authority may be employed in the same department/division upon approval of the President.

I. Qualifications for Employment, Promotions or Transfers

- A. In employment, promotional and transfer decisions, NMJC shall consider qualification ability and past performance, organizational needs, and aspirations of individuals and availability of other job candidates. NMJC may promote employees from within the organization to more responsible positions. However, in all cases, NMJC will be seeking the best qualified applicant(s) for the position(s).
- B. An employee seeking promotion or transfer to another position or department is encouraged to discuss the matter with his/her immediate supervisor and a representative from the Human Resources Office.
- C. In considering employees for promotion or transfer, seniority or length of service shall be given weight only if all other factors are essentially equal. The primary criteria shall be individual qualifications and organizational needs.
- D. NMJC may check and verify any facts or statements related to the employment of any applicant for employment at NMJC.

II. Requisition for Employment

- A. The department or division with a vacant position shall notify the Human Resources Office who will generate the Personnel Requisition and job description, which shall be approved by the appropriate Vice President, Vice President for Finance and the President.
- B. New titles and job descriptions must be provided to Human Resources. The President will have final approval.
- C. New positions must be approved by the Vice President for Finance and the President prior to March 1<sup>st</sup> in order for the position to be funded for next fiscal year.

III. Posting

- A. New positions and vacancies for full-time positions shall be posted (except as provided in the following Subsection C).

- B. Upon receipt of an approved Personnel Requisition, the Human Resources Office shall post the new position or vacancy on the Human Resource bulletin board and on the New Mexico Junior College Web page for a minimum of five (5) working days.
- C. Reclassification or upgrading of an existing position shall not be considered a new position or vacancy.

IV. Applicant Selection/Employment Interviews

- A. All applicants, whose qualifications meet the requirements of the new position or vacancy, shall be referred to the employing department/division for interviews and selection.
- B. Current employees shall be granted time to attend job interviews on campus that have been scheduled during their regular work hours. Employees shall notify their supervisors in advance of the interview so appropriate arrangements can be made.
- C. Adhere to the selection committee-training manual.

V. Offers of Employment

- A. No offers of employment shall be made before the close of business on the last day of the posting period.
- B. Offers of employment shall be made only to applicants who have processed through the Human Resources Office.
- C. Final offers of employment shall be made only by the President.
- D. Placement on the salary schedule shall be determined by the Human Resources Office after consultation with appropriate supervisor(s) and administration.
- E. Unsuccessful applicants shall be notified in writing by the Human Resources Office.
- F. Effective date of a promotion/transfer shall be determined by the losing and gaining supervisors. A normal notice is two (2) weeks.
- G. Employees promoted and/or transferred to another position may be eligible for a promotional increase in salary upon transfer.
- H. All new hires must have cleared the background check before the first day of employment.
- I. All Employees who work in safety sensitive positions, which include but not limited to: Physical Plant employees, on NMJC property must submit and pass a Urine Drug Screen Test and/or Blood Test or Breath Test prior to employment.

- I. The NMJC Board shall determine the course(s) of action necessary to ensure NMJC's ability to meet its fiscal obligations. Economic conditions at NMJC may require a reduction in salary, a reduction in work force or both. Should the NMJC Board determine a reduction in force is necessary, the notification deadlines for professional employees as set forth in the "Procedure for Non-Renewal of Annual Contracts" section (see Section II, Policy 400) shall be set aside.
  - A. Demotion or dismissal may result from a reduction in budget, change in program emphasis or lack of work.
  - B. If reassignment is not feasible, employees may be demoted or dismissed after an administrative review.
  - C. Salary considerations shall follow the same procedure described in the section titled "Voluntary Demotion" (see Section II, Policy No. 236).

- I. The development of a comprehensive wage and salary plan is vital to NMJC to recruit and retain well qualified employees, meet NMJC obligations as an equal opportunity/affirmative action employer and achieve the following objectives:
  1. Promote fair employment practices within NMJC.
  2. Strive to ensure all positions are kept in a fair and equitable compensation status.
  3. Provide a system by which fair compensation is made within resources available.
  4. Degrees and credits, when earned, shall be from colleges and universities, which are regionally or nationally accredited, recognized and approved by the U.S. Department of Education. Degrees conferred from foreign institutions must go through an equivalency process by an equivalency-accrediting agency.
  5. To comply with Higher Learning Commission standards, individuals being considered for faculty position or current faculty must have at a minimum a Master's Degree in subject matter or a Master's Degree in a different field with a minimum of 18 hours of Master's level class' in the subject matter they instruct. Any exceptions to this policy must be approved by the Vice President of Instruction and the President of the College. In order to avoid confusion, all graduate hours applied under this provision shall be reviewed by the appropriate Dean and Vice President of Instruction prior to the faculty member being offered a teaching position.

II. Salary Plan Provisions

A. The objective of the salary plan is for NMJC to be competitive with other similar institutions in local and regional markets and to achieve the goals stated in paragraph I of this section (Policy 206, I.).

B. Faculty

1. Salary adjustments based on additional semester hours or degrees earned shall be made only at the beginning of the contract year following completion (not at midyear).
2. Employee shall notify appropriate Dean prior to annual budget preparation, of any course work that shall qualify a faculty employee for advancement on the salary plan for the coming year. Approval shall be transmitted to the Human Resources Office for the faculty employee's personnel file.
3. These provisions shall not imply nor guarantee the expectation of continued employment with NMJC.

C. Professional

1. Salary adjustments based on degrees earned shall be made only at the beginning of the contract year following completion (not at midyear).
2. Employee shall notify appropriate Dean prior to annual budget preparation, of any course work that shall qualify a professional employee for advancement on the salary plan for the coming year. Approval shall be transmitted to the Human Resources Office for the Professional employee's personnel file.
3. These provisions shall not imply nor guarantee the expectation of continued employment with the College.

D. Support/Maintenance

1. Increment adjustments shall be granted to individual employees upon the satisfactory completion of college course work directly related to his/her current work assignment. For a course to be considered for a salary increment:
  - a. Employee shall initiate and obtain pre-approval of the course from his/her appropriate supervisor prior to enrolling in the course by demonstrating the relationship and/or value of the course to the employee's current work assignment. (Note: Only course work taken on an employee's own time shall be considered for a salary increment. Course work taken on a released time basis shall not be eligible.)
  - b. Employee's appropriate supervisor shall obtain and submit the appropriate paperwork to the Human Resources Office prior to the first day of class.
  - c. Salary increments shall go into effect at the beginning of the next fiscal year following successful completion of the course (not at mid-year). A grade of "C" or better shall be earned in the course. In cases where salary increments are granted for classes satisfactorily completed, one shall not expect additional increments for having completed an associate or bachelor's degree using the same college hours for which he/she is already being compensated.
  - d. A maximum of ten (10) salary increments may be earned.
2. These provisions shall not imply nor guarantee the expectation of continued employment with New Mexico Junior College.

Occasionally an emergency situation may occur in which an employee may need to render first aid or obtain emergency treatment for a student, a visitor, or a coworker. Employees should notify their supervisor and the on duty Campus Security & Safety Officers of the emergency. In all cases, a report of all accidents shall be made in writing to the Director of Campus Security & Safety as soon as possible by the on duty Campus Security & Safety Officer. If the emergency involves an NMJC employee, see the section dealing with workers' compensation for guidance and direction (Section II, Policy No. 312).

The President or his designee, the General Counsel, and Director of Campus Security & Safety will:

- Work together to determine the best course of action in regard to inclement weather.
- Work with the Hobbs Municipal School District to determine the Hobbs Municipal School District's inclement weather action.
- Prior to NMJC class delays, cancellations or campus closure, an inspection of the NMJC campus will be made by any of those individuals listed above.
- Once the decision to delay or close the campus due to inclement weather, the following will occur:
  - An authorized system administrator will make a class delay, cancellation or campus closure notifications via the Regroup Mass Notification System (text, email and social media).
  - The Director of Computer Information Systems will also be notified and the closure information placed on the college web page.
  - The Director of College Communications will also be responsible for notifying local television and radio stations of the closure or delay of the campus activities. Local school districts that bus students to the campus will also be notified of the closure or delay in classes.

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SECTION: Employment Procedures, Regulations, Policies and General Information

POLICY TOPIC: Workweek – Professional and Support Staff

The workweek is a regular recurring period of one hundred and sixty-eight (168) hours in the form of seven (7) consecutive twenty-four (24) hour periods. The College workweek begins at 12:01 a.m. on Monday and ends at midnight the following Sunday. When practical, each employee is scheduled for a workweek consisting of five (5) consecutive days and the designated supervisor shall schedule working hours to meet operational needs. The normal schedule is eight (8) hours per day beginning at 8:00 am and extending to 5:00 pm, Monday through Friday, with a one (1) hour lunch. Mealtime is not computed as hours worked and employees shall check out for lunch each day. Particular work hours may be extended due to the needs of your office with Presidential approval only.

Employees are expected to be at their place of work at the time set by their supervisor, if not earlier. You are expected to keep absences, planned or otherwise to a minimum, so as to not adversely affect the work of their department. Excessive absences may result in termination of employment.

Engaging in outside employment for money, although not encouraged, is not prohibited unless such work interferes with the employee's duties, creates a conflict of interest or adversely reflects on the College or its purpose.

Employees must receive approval from the President before engaging in outside employment. A written disclosure of outside employment form must be filed with the Human Resources Office, in accordance with New Mexico law.

The full-time employee salary checks are disbursed by the Business Office after 8:00 a.m. on the 15th and the last working day of the month. When the 15th day or last working day of the month falls on Saturday or Sunday or Bank Holiday, salary checks shall be disbursed by the Business Office on the prior Friday for that particular pay period.

Part-time employees and student work-study employee salary checks are disbursed by the Business Office after 8:00 a.m. on the 10th and the 25th day of the month. When the 10th and/or 25th working day falls on Saturday or Sunday or Bank Holiday, salary checks shall be disbursed by the Business Office on the prior Friday for that particular pay period.

Pay information is on the T-Bird Web Portal.

Full-Time Employees signed up for direct deposit shall have their direct deposit voucher available on the T-Bird Web Portal by 8:00 a.m. on the 15th and the last working day of the month. When the 15th day or the last working day of the month falls on Saturday or Sunday or Bank Holiday, direct deposit vouchers shall be available the on the NMJC Web Portal the-prior Friday for that particular pay period.

**Note:** *Direct deposit privileges are available to all full-time, part-time and student work-study employees. Please see payroll to complete the necessary paperwork. All employees are highly encouraged to set up a direct deposit.*

**General.** The protection and safekeeping of NMJC property is the responsibility of all NMJC employees. Employees who are issued office and/or building keys shall closely guard their keys to prevent unauthorized use.

**Issuance; Use; Duplication.** Office and/or building keys shall be issued to an employee only through the assigned secretary upon receipt of completed key request forms approved by the appropriate Vice President and/or President. **Under no circumstances shall an employee be authorized to swap, trade, loan or pass along keys issued under his/her name to another employee or any other person. Key(s) issued to an employee shall not be duplicated under any circumstances.**

Upon issuance of office and/or building keys, the employee shall acknowledge in writing the receipt of this policy and shall agree to the responsibilities associated with key possession. If an employee experiences a change in position or assignment, he/she shall immediately turn in his/her key(s) to his/her supervisor or the assigned secretary. The employee shall then be approved for the issuance of new key(s) authorized for his/her new assignment by the appropriate Vice President and/or President.

An employee's job position may require the employee to access controlled areas by way of secured key privileges in order to perform his/her job responsibilities. In such a case, the employee may be required to meet additional security requirements prior to being issued keys to a controlled area. Prior to the issuance of a building master or a grand master key, a completed background check must be on file. A grand master key shall be issued only to an employee with no felony conviction and shall be approved by the appropriate Vice President and the President.

**Return of Keys.** Upon termination of employment or transfer of position, an employee shall promptly return all keys issued to him/her to his/her supervisor or the assigned secretary.

**Reporting Loss; Replacement Fees.** An employee who loses an NMJC key shall immediately report such loss to their supervisor, (ii) his/her assigned department secretary and (iii) Campus Security & Safety. An employee may incur monetary fines or be required to pay key replacement fees for lost or stolen keys.

**Disciplinary Actions upon Violation.** Any violation of this policy or misuse of key privileges shall subject the employee to personal liability for any and all resulting damages, missing property and any other losses sustained by the College and shall result in disciplinary action up to and including dismissal.

#### KEY REPLACEMENT COST

Keso	\$75.00	Restricted areas
GMK	\$50.00	Non-restricted areas
Grand Master	\$100.00	Classrooms, offices, storage
Building Interior Master	\$50.00	Inside building master
Building Exterior Master	\$75.00	Outside building master
Pass Key	\$50.00	Specific Office, classroom
Electronic Access Key	\$50.00	Exterior building master 1 door
Electronic Master Key	\$100.00	Exterior building master more than one door

**NEW MEXICO JUNIOR COLLEGE EMPLOYEE HANDBOOK**

Policy No. 215

SECTION: Employment Procedures, Regulations, Policies and General Information

POLICY TOPIC: Absence from Assignment

Absence from an assignment by an employee shall be arranged with the appropriate supervisor at least one (1) week in advance. In case of sudden illness, the appropriate supervisor shall be notified at least one (1) hour prior to the beginning of the academic day, if possible.

Employees should contact their supervisor in the event of an unplanned absence. Unless it is physically impossible, if employees do not report for work or notify their supervisor for three (3) consecutive workdays, they will be considered as having resigned their position.

NEW MEXICO JUNIOR COLLEGE EMPLOYEE HANDBOOK

Policy No. 216

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SECTION: Employment Procedures, Regulations, Policies and General Information

POLICY TOPIC: Employee Clearance Procedure

When an employee leaves employment with NMJC, a checkout form shall be obtained from the Human Resources Office. The form shall be used to clear the account of an employee with the Library, Bookstore, Division Secretary (for college issued keys), Business Office, Campus Security & Safety and the Human Resources Office. Appropriate signatures shall be obtained and the completed form shall be presented to the Human Resources Office.

Long distance telephone, fax and copy machine access is restricted to authorized users via the assignment of a unique employee identification code. The code shall be confidential. Personal use of any such codes may result in discipline up to and including termination of employment.

NMJC is aware of the health hazards associated with the use of tobacco products, for the tobacco user as well as the non-tobacco user. In an effort to provide a healthy environment for students, employees and others that may frequent the campus, NMJC prohibits the use of tobacco products inside any NMJC building or NMJC vehicle, whether owned or leased.

Tobacco use shall mean all uses of tobacco including but not limited to cigar, cigarette, pipe, snuff, chewing tobacco, E-cigarettes and vapor pens.

- I. Alcohol, the use of alcohol, or being under the influence of alcohol, illegal drugs, the use of illegal drugs or being under the influence of illegal drugs is prohibited on the campus of or facilities used by NMJC or in NMJC vehicles.
  
- II. The possession of Alcohol/Illegal Drugs in a NMJC vehicle or a private vehicle being used for College business and the use of alcohol/illegal drugs while operating a NMJC vehicle or a private vehicle being used for College business is prohibited. Furthermore, alcohol/illegal drugs and the use of/or being under the influence of alcohol or illegal drugs during a school sponsored activity are prohibited on all school sponsored trips and any time an employee is in the presence of students during a school sponsored activity or when an employee is responsible for or supervising students in a school sponsored activity.
  
- III. The purchase of alcohol or illegal drugs on a college credit card is prohibited.

For additional information as it relates to alcohol or drug matters, refer to Appendix B.

I. General Travel Information

Employees shall contact the Business Office for specific information regarding per diem rates, appropriate travel forms and advance procedures.

Employees will be reimbursed actual expenses for lodging not exceeding the single occupancy room charge (including tax). Employees must submit receipts for actual lodging expenses incurred. Expenses for meals are limited to a maximum of \$30.00 for a 24-hour period.

The purchase of alcohol or alcohol beverages is not a reimbursable expense for NMJC employees.

Receipts are required for reimbursement of other travel expenses such as ground transportation and parking fees. If receipts are lost or not available, an affidavit must accompany the travel form and include the signature of the appropriate department head.

NMJC vehicles should be utilized when making travel arrangements.

Only employees on the NMJC **Approved Driver's List** are authorized to operate a college, rental or personal vehicle while on College business. (New Mexico Junior College Safety/Emergency Manual Chapter 19, page 87, Vehicle and Heavy Equipment Safety.)

NMJC employees must have taken the defensive driving course to be authorized to drive an NMJC vehicle. The certificate must be kept current and renewed every two years. Non-compliance could result in non-compensation for the trip.

Alcohol/Illegal Drugs in an NMJC vehicle or a private vehicle being used for College business and the use of alcohol/illegal drugs while operating a NMJC vehicle or a private vehicle being used for College business are prohibited. Furthermore, alcohol/illegal drugs and the use of alcohol/illegal drugs during a school sponsored activity are prohibited on all school sponsored trips and any time an employee is in the presence of students during a school sponsored activity or when an employee is responsible for or supervising students in a school-sponsored activity.

All NMJC Employee travel, for college related activities, must be pre-approved and the proper travel forms completed prior to the employee making the trip.

Prior to utilizing or checking out a college vehicle, the appropriate request form must be signed and delivered to the NMJC Motor Pool.

All NMJC Employees are required to sign a “Waiver Release and Indemnification Agreement” for travel in a personal vehicle being used for NMJC Business. The form must have all required signatures before the employee uses their personal vehicle. After the form has been completed and all signatures obtained, it will be kept in the Human Resources office.

This form is good for only one year from the date it was signed by the employee and supervisors.

## II. Driving Guidelines

All employees who operate a motor vehicle for College business (whether a college vehicle, rental vehicle, or personal vehicle) must be on the Approved Drivers List. This list shall also include any motorized gasoline, diesel, or electrically driven machine or machinery, which is designed for the operator to ride upon, while it is in motion.

For employees to be eligible for being on the approved drivers list several factors apply. All employees must take and pass a State Certified Defensive Driving Course that is approved by NMJC at least once every two years. This course will be paid for by the College for employees whose job requires them to be on the Approved Drivers List. For additional information about other qualifiers or disqualifiers, refer to the NMJC Safety Manual section titled “Vehicle and Heavy Equipment Safety”.

In the event an employee is on college business and has a motor vehicle accident, the following guidelines shall be followed:

- a. Stop immediately.
- b. Take all necessary precautions to prevent further accidents at the scene.
- c. Check for injuries. If there are injuries, immediately call EMS. You shall also render all reasonable assistance to any injured party. Reasonable assistance is defined as your own knowledge skills and training.

- d. Do not move your vehicle until Law Enforcement personnel have told you that you can move it. By moving your vehicle too early, you may change the whole scope of the investigation and destroy any physical evidence that would assist Law Enforcement in determining what happened.
- e. Try to warn oncoming traffic to prevent other accidents:
  - Turn on your hazard lights if they will work.
  - Raise your hood if possible. Be cautious in handling any part of your vehicle that was damaged. You can receive injuries.
  - Ask a bystander to assist in warning approaching traffic.
  - Ask other parties or witnesses to assist with using their hazard lights.
- f. Provide required information to the other party, their representative or any investigating police officer. The required information is listed as follows:
  - Your name, address, and phone number.
  - Vehicle identification number, license number, and description.
  - Insurance information.
  - Driver's license number.
- g. **DO NOT MAKE ANY STATEMENTS AT THE ACCIDENT SCENE REGARDING THE INCIDENT, EXCEPT TO POLICE OR REPRESENTATIVES OF NEW MEXICO JUNIOR COLLEGE.**
- h. Do not admit guilt to any traffic offense to the other party. Allow Law Enforcement the time to investigate the incident. The accident may not have been your fault. When you admit guilt to the other party, they could change their story to Law Enforcement to reflect what you have told them.

### III. Use of Personal Vehicle for College Business.

NMJC owns and operates a fleet of vehicles for use by employees when traveling on college business. The College prohibits the use of college-owned vehicles by employees for personal use or errands.

There are certain times when an employee may be authorized to use a personally owned vehicle for college business. When such use is authorized, the employee will be reimbursed after the travel has occurred for the allowable mileage. **The use of the employee's personal vehicle for college business is not permitted without first obtaining written permission from the employee's supervisor.**

The employee also must complete a Waiver of Liability form and attest in such waiver that the employee has a valid license to operate a motor vehicle and valid liability insurance in amounts that meet or exceed the minimum requirements of the State of New Mexico. The waiver may be obtained from the Director of Campus Security & Safety. The waiver must be signed by the employee and returned to the Director of Administrative Services prior to use of a personal vehicle for college business.

The employee will be reimbursed for only the verified map mileage to-and-from the business destination. Mileage reimbursement is based on the applicable NMJC approved mileage rate. The employee is also responsible for purchasing all fuel and any vehicle maintenance costs associated with using a personal vehicle on college business.

When multiple employees are going on the same trip, every effort should be made to travel in the same vehicle and combine expenses. Employees who opt to travel separately and take a personal vehicle will be reimbursed mileage at the discretion of their supervisor.

Security, safekeeping and proper care of public equipment and facilities is a responsibility of all NMJC employees.

New Mexico Junior College employees shall not utilize any NMJC property or facilities for personal use or private business, non-college related projects or activities on or off campus. Violation of this policy may result in discipline up to & including termination of employment.

NMJC facilities may be used for personal or private use on the same basis of scheduling and fees required of non-employees when appropriate procedures for such use have been followed.

Employees shall comply with the College's current copyright policy. Violation of this policy shall result in discipline up to and including termination of employment.

For additional information, please refer to Appendix C.

New Mexico Junior College provides numerous information technology resources for use by the College's students, faculty, and staff. Information technology includes, but is not limited to, all College computing equipment, software, systems, and networks. These resources are provided to support the College's mission and institutional goals. The use of these systems is a privilege and all users are expected to act responsibly and to follow the College's policies governing the use of these resources. Violations of this policy could result in disciplinary review. In such a review, the full range of disciplinary sanctions is available including the loss of computer use privileges, dismissal from the College, and legal action. Violations of some portions of the policy may constitute a criminal offense.

The College's Information Technology Acceptable Use Policy requires that each campus user abide by and agree to the following guidelines:

- I. Respect security requirements for computer accounts.
  - A. A computer or electronic mail (e-mail) account assigned to an individual, including student accounts, must not be used by others. Faculty, students, and staff are individually responsible for the proper use of their accounts, including password protection and appropriate use of Internet resources. Making your password or another person's password or access code available to others or otherwise attempting to evade, disable or "crack" password or other security provisions, or assisting others in doing so, threatens the work, privacy and well-being of many others and is a serious violation of College policies. Also, faculty, students and staff are responsible for choosing an appropriate password that is difficult for others to guess. If an individual suspects their password has been compromised, they should change the password immediately.
  
- II. Respect copyright laws.
  - A. Computer software use must conform to copyright laws and licensing agreements. Copyright law protects software whether a copyright notice is explicitly stated in the software or its documentation. Software licensed by the College must only be used in accordance with the applicable license. It

is illegal to make duplicate copies of software products unless authorized to do so by its author or publisher. Computer users have no right to give or receive duplicates of software without authorization or to install duplicated software onto College computing equipment.

- III. Respect the rights of others using the system.
  - A. Computer users shall not use the College's information technology resources to participate in activities that are harassing in nature or prohibited by law. Sending messages, information, or images that are threatening, harassing, or discriminatory in nature is in violation of College policies and may be in violation of the law. Displaying potentially offensive material in a computer laboratory or other campus location is not allowed. Users are absolutely prohibited from utilizing systems to create, access, store or disseminate materials that may be sexually or racially offensive, or otherwise insulting or derogatory to persons of a certain race, color, religion, sex, sexual orientation, national origin, age, disability, genetic information, or veteran status.
  
- IV. Respect electronic mail guidelines.
  - A. In support of the College's mission, the College encourages the use of its electronic mail services to share information, to improve communication, and to exchange ideas. Any electronic mail address or account associated with the College is the property of the College. Those who use the College's electronic mail services are expected to adhere to state and federal laws, the policies and procedures of the College, and should follow normal standards of professional and personal courtesy and conduct. Electronic communication under a false name or designation is prohibited. Sending anonymous communications does not disassociate senders from assuming responsibility for their actions.
  - B. Electronic mail services should not be used in ways that strain the College's computing resources or interfere with others' use of the electronic mail system. Prohibitive uses include, but are not limited to, sending or forwarding chain letters, exploiting list-servers by amplifying widespread distribution of electronic mail, and sending the same electronic mail message repeatedly.

- C. Employees are prohibited from using the “All Employee” mass distribution list to distribute non-work related messages. Information in regards to work, employees, and NMJC sponsored events are acceptable.
  - D. Confidentiality of electronic mail cannot be assured. The system administrator, technical managers, or other persons may need to view the contents of computer accounts and electronic mail to perform maintenance or to diagnose and correct problems. When performing maintenance, the College will make reasonable attempts to ensure the privacy of computer accounts and electronic mail, but cannot guarantee total privacy of the accounts. The user however acknowledges and consents that the College may monitor e-mail communications and internet usage in order to insure compliance with this agreement. If policy violations are discovered, they will be reported immediately and appropriate action will be taken.
- V. Respect the operational guidelines governing the use of the information technology facilities.
- A. Administrators responsible for computer systems may establish more detailed guidelines governing the use of the College’s computing equipment and facilities. These guidelines cover such issues as allowable connect time, disk space allocations, handling of un-retrievable mail, responsibility for account approval and other items related to administering the systems. The downloading of any software onto computing equipment owned or operated by New Mexico Junior College (unless downloaded material is considered a faculty resource) without prior written approval is not permitted. During peak system utilization times, computer users engaged in activities, which are not directly related to the business of the College, may be asked to relinquish their access to the system. Settings on computers are not to be changed. Computer users, whether on campus or accessing NMJC resources remotely, are expected to abide by these rules and use the College’s computing resources in a responsible and professional manner.
  - B. The college prohibits the use of programs that degrade the available bandwidth, including but not limited to music/radio programs, videos, and game playing from Internet sites, unless these programs are incorporated into instruction.

- C. The College provides information technology resources for users to engage in activities that support the work of the institution. Use of the College's resources for commercial reasons, fund-raising, political campaigns, or illegal purposes is not acceptable. Non-authorized solicitations on behalf of individuals, groups, or organizations are prohibited.

VI. Agreement

- A. All users of New Mexico Junior College computing systems must read, understand, and comply with the policies outlined in this document. By using any of the College's information technology resources, users agree to comply with these policies.

Conflict of interest occurs when an employee is in a position to influence a decision or utilize information that the employee shall have access to their position, which may result in a personal gain for the employee (or for a family member or any immediate family member).

An NMJC employee shall treat their position as a public trust and shall use the powers and resources of their position to advance the interests of NMJC and shall not obtain personal benefits or pursue private interests that are incompatible with the public interest. All NMJC employees shall conduct themselves in a manner that maintains the appearance and fact of integrity in the ethical discharging of their position responsibilities.

Pursuant to state law, NMJC employees shall not request or receive money, items or gifts of value, favors, gratuities or promises from any person, firm or corporation that is engaged in or attempting to do business (either directly or indirectly) with NMJC. An employee having (or whose family has) any sort of financial or managerial relationship (whether directly or indirectly) with a business attempting to do business with NMJC shall disclose such relationship in writing to the Coordinator of Purchasing before NMJC can purchase goods or services from the business. The employee disclosure shall be made in writing annually and shall be maintained on file in the Business Office. In following the Procurement Code, NMJC shall purchase goods and services from the source most advantageous to the institution.

No employee shall accept other employment or engage in any activity that might reasonably cause him/her to disclose confidential information acquired by reason of his/her employment with the College.

All NMJC employees shall make NMJC purchases in accordance with the State Procurement Code and purchasing procedures published by the Business Office. Any unauthorized purchases made by an employee shall be considered personal in nature and shall not be binding on NMJC.

Employees shall not use NMJC charge/vendor accounts for personal use. Violation of this policy may result in discipline up to and including termination of employment.

Procedures for placing an order:

The order may be either placed in person by presenting the Card to the vendor, by telephone, or online for internet orders. If calling an order in to a vendor and for online internet orders, provide your Purchasing Card number and expiration date, found on the front of the Card.

Advise the vendor that the order is tax exempt. Do not proceed with the purchase until you are certain that the tax will not be assessed.

All deliveries must be sent to New Mexico Junior College Warehouse with the Cardholders name on the package. The person at the warehouse will then record receipt of the order and secure original supporting documentation. Orders should never be shipped offsite unless the purchasing department grants special approval. Once you received the order, please get the receipt to your department secretary as soon as possible, so they can enter it on the Visa Statement Form.

Purchasing Card Requirements:

Employee using the purchasing card must provide an itemized receipt (includes meal receipts). Employee must ensure sales tax is not charged when it pertains to a non-service or non-construction related purchase. Employee assigned the card is the only individual allowed to use the card. Purchase cannot be incrementally split to circumvent purchase limits. Purchases cannot be for unauthorized or prohibited items. (For questions, contact the Purchasing Office). Some restricted items are as follows:

- Purchases greater than \$1,500
- Inventory item (equipment greater than \$1,000)
- Personal purchases
- Office decorations
- Alcohol or drugs

If the Purchasing Office identifies a purchase that is not within the purchasing guidelines, the cardholder will be informed of the correct procedures. If further problems are identified with cardholder purchases, the Purchasing Office reserves the right to contact the cardholder's supervisor and /or department Dean or Vice President. If further problems occur, cardholder privileges may be terminated and the employee could receive discipline up to and including termination of employment.

Each NMJC employee represents NMJC, both on and off campus. Positive public relations include a friendly smile, courteous manner, and a cordial, well-mannered disposition toward all with whom we come in contact. Employees shall project a professional image in the workplace and are expected to dress in a professional manner appropriate to their role and job duties. Within these general boundaries, there shall be specified clothing not to be worn by office employees, professional staff and faculty while on duty--t-shirts, shorts, mini-skirts, sweat pants and/or nylon wind suits, tank/halter tops, , and jeans. However, the President may designate Fridays as jean days. This means clean jeans/shirts that are in good repair, without holes, can be worn. T-shirts that are NMJC sanctioned which includes all NMJC organizational and departmental t-shirts can be worn only on Fridays. As approved by the President, certain workdays may be declared “casual” or “dress-down” days. In order to maintain a professional image, all student workers shall adhere to the College dress policy.

SECTION: Employment Procedures, Regulations, Policies and General Information

POLICY TOPIC: Absence from Assigned Responsibilities due to Participating in Local, State or National Activities of a Political Nature

All NMJC employees shall have the privilege of participation in political as well as other community activities. Each employee shall indicate that comments, actions and/or statements are his/her own and in no way represent any other person officially associated with NMJC.

Prior to an announcement for a public office or position that is determined by vote, the employee shall consult with the President at which time a conference shall be arranged with the employee and their supervisor. After visiting with the employee and the supervisor, the President shall inform members of the NMJC Board of the expected announcement.

When performance (or anticipated performance) by an employee of the duties of an elected public office shall require the employee to be absent from his or her assigned duties at NMJC for any time in excess of the employee's accrued vacation and accrued personal leave, the employee shall submit a request pursuant to Policy No. 308 for such absences to be treated as a leave of absence without pay. The employee shall not be required to use all accrued vacation and personal leave for elected duties prior to submitting a request under Policy 308; however, a request to take time as unpaid leave pursuant to this policy shall be final and shall not later be re-characterized or compensated as paid leave.

With respect to employees on unpaid leave for the performance of the duties of elected public office, Policy 308 shall be modified and applied as follows: Because absences for purposes of performing the duties an elected official are intermittent in nature, there shall be no limit on the length of time an employee may be on such unpaid leave, so long as all absences are in the course of performing the employee's duties as an elected public official. An employee returning from such unpaid leave shall be entitled to reinstatement to his or her position to the same extent as persons on leave serving in the Military. An employee on unpaid leave due to the performance of the duties of elected public office shall not have his/her anniversary date adjusted, regardless of the number of days absent on such leave.

NMJC encourages each and every employee to participate in our election process to include local, state and national elections. NMJC also encourages each employee to vote their conviction on each/every issue. However, the College cautions the employees to refrain

SECTION: Employment Procedures, Regulations, Policies and General Information

POLICY TOPIC: Absence from Assigned Responsibilities due to Participating in  
Local, State or National Activities of a Political Nature

from actively working in any political campaign during those hours for which they are being compensated by the NMJC District.

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SECTION: Employment Procedures, Regulations, Policies and General Information

POLICY TOPIC: Collective Bargaining

The 46<sup>th</sup> New Mexico legislature, 1<sup>st</sup> session, passed the “Public Employee Bargaining Act” of 2003 (effective July 1, 2003). In response to this legislation, the New Mexico Junior College Board approved the “New Mexico Junior College Resolution Creating a Policy on Labor Management Relations” on April 17, 2003. Copies of the document are available for review in the president’s office and Pannell Library.

**EMPLOYEE THEFT WILL NOT BE TOLERATED**

- I. It is a violation of the New Mexico Junior College theft policy for any employee to take or allow another employee to take College property and convert that property to his/her own use or to give college property to another for their personal use. Employees who violate this policy will receive discipline up to and including termination of employment.
- II. The employee theft policy of NMJC shall apply to property that has been thrown into a dumpster. Theft of property shall include taking items from the dumpsters. Should an employee locate property of a questionable nature, he/she shall notify the immediate supervisor to determine the disposition of that property. All employees are expected to report suspected theft abuses to the appropriate supervisor.
- III. If an employee of NMJC is suspected of taking anything of value, the Director of Campus Security & Safety shall conduct an investigation and report the findings to the General Counsel. At the discretion of the Director of Campus Security & Safety, law enforcement personnel may be requested to assist in further investigation.
- IV. The findings of the internal investigation shall be presented in writing to the President. In the event the findings indicate that a violation of the policy has occurred, the employee will receive discipline up to and including termination of employment.
- V. It is the policy of NMJC to report any allegation of theft from NMJC to the appropriate law enforcement agency for further handling as a criminal matter.

SECTION: Employment Procedures, Regulations, Policies and General Information

POLICY TOPIC: Firearms and Deadly Weapons Possession on Campus

The safety of employees, students and visitors on campus is a priority. For this reason, and notwithstanding some laws that may allow people to carry firearms in public, NMJC prohibits anyone from possessing or carrying weapons of any kind on any property owned or leased by NMJC, including in any college vehicle, whether such vehicle is on campus or off campus. Prohibited items include all firearms, all illegal knives and other types of blades, explosives and any other form of weapon.

If an employee is unsure whether an item is covered by this policy, please contact Campus Security & Safety. Employees are responsible for making sure that any item they possess is not prohibited by this policy.

Certified police officers, security guards, Law Enforcement and Correction Cadets, when used in conjunction with their educational programs, and other qualified individuals who have been given prior written consent by the President to carry a weapon on NMJC property will be allowed to do so. Authorization to carry a weapon may be revoked at any time by the President.

While NMJC has a policy prohibiting weapons, nothing in this policy shall be construed as creating any duty or obligation on the part of NMJC to take any actions beyond those required of any employer by existing law.

Bookstore charge accounts are available to full time employees. Employees can charge up to \$200.00 if the employee has signed a payroll deduction agreement to deduct a minimum of \$10 per pay period. An account limit of \$400 requires a payroll deduction agreement of a minimum of \$20 per pay period. Once the limit is reached, no further charges can be made until the balance is reduced. The College also recognizes that there are certain items in the bookstore that by themselves exceed the \$400.00 limit. For an employee to charge items costing more than \$400.00 they must have written permission from the Vice President of Finance before these purchases can be added to their account. Employees can elect to have a larger amount deducted from payroll each month.

Upon resignation of employment with the College, the entire balance of the Bookstore charge account must be paid in full.

SECTION: Employment Procedures, Regulations, Policies and General Information

POLICY TOPIC: Employees Children at Work

NMJC wants to provide a safe and efficient work environment for all employees. To further this goal, NMJC prohibits employees from bringing children (or other visitors/guests) with them when they are working on the campus or to off campus meetings when they are representing NMJC.

When specified by NMJC as a family event, employees will be invited to bring family members to attend such events.

Contracts of full-time professional employees shall be made on the current academic year or the current fiscal year basis.

Professional/Faculty employees' job descriptions are maintained electronically in the Human Resources Office. Job descriptions, which shall be changed from time to time, and become a part of each professional/faculty employee's contract.

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SECTION: Employment Procedures, Regulations, Policies and General Information

POLICY TOPIC: Utilization of College Property for Projects

Institutional and subject matter related projects shall be conducted by NMJC employees.  
All such projects must comply with Board Policy 805.

For additional information, please refer to Appendix C.

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SECTION: Employment Procedures, Regulations, Policies and General Information

POLICY TOPIC: Faculty Handbook

Policies specifically related to faculty, both full-time and part-time, are documented in the Faculty Handbook.

Commencement exercises are held at the end of each spring semester. All full-time professional employees shall march in the processional/recessional and wear formal regalia. Caps, robes, and formal regalia shall be the responsibility of the individual professional employee and may be purchased through the Bookstore. Instructions and information concerning commencement exercises shall be provided by the Registrar's Office. Any deviations from this policy must be approved by the President.

Violation of this policy may result in disciplinary action up to and including dismissal.

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SECTION: Employment Procedures, Regulations, Policies and General Information

POLICY TOPIC: Annual Evaluations Session

The success of NMJC is directly related to the job performance of its employees in its service area. Therefore, NMJC shall be committed to evaluations of employee job performance.

I. Employee Request

- A. Employee shall request a demotion when he/she believes he/she is not suited for the position to which he/she was promoted.
- B. Employee requesting a voluntary demotion for any reason shall file a written request to the Human Resources Office stating his/her reason for the request. This request shall follow a discussion with the immediate supervisor to ensure validity of the request.
- C. Office of Human Resources shall interview the employee to determine if the action requested is purely or primarily voluntary and to determine the options regarding assignment and salary.
- D. Employee reverts to the pay of the previously held position, plus whatever increase he/she would have earned if no promotion had occurred.

- I. The President shall determine the course(s) of action necessary to ensure the best utilization of College employees. Circumstances may require or make it more advantageous to reassign employees and/or reclassify positions. The reclassification of a position and/or reassignment shall normally be made at the beginning of the fiscal year.
  - A. Reassignments shall be determined by the division/department supervisor who controls the action, makes the reassignment, and still has the employee when the action is completed.
  - B. Reassignments may be at the same range and salary.
  - C. Reassignments are made to:
    1. Meet temporary or continuing changes in workload.
    2. Move an employee to a more desirable assignment.
    3. Give the employee an opportunity to grow by having either different work assignments, different publics or different environments.
  - D. Organization efficiency and productivity are the primary considerations when making reassignments. The impact on the individual employee and all other employees in the organization shall be considered as well.
  - E. Human Resources Office shall be notified of pending reassignments, including the effective date and anticipated duration.
  
- II. Results of Job Evaluation
  - A. Change may result from a job evaluation survey that determines the employee is performing at a higher or lower level of duties and responsibilities than the salary would warrant.
  - B. Human Resources Office shall review the Position Description Questionnaire (PDQ) used in classifying or reclassifying positions to determine the validity and reasons for the change in duties and responsibilities.
  - C. Employee shall retain the current salary if the salary is within the range of the position to which he/she is being demoted and if the changes in duties and responsibilities are the result of a shift in program emphasis and not substandard performance. If the employee's salary is above the range of the

position to which he/she is demoted; consideration shall be given to retaining that salary for a specific or indefinite period, if necessary.

- D. Employee shall be promoted again as soon as a reclassification is possible or a promotional opportunity occurs. However, if the employee has suffered no loss in pay, the employee shall not receive a promotion increase for the promotion to the previously held position or salary range.
- E. Employee shall be permitted to retain the salary of the higher-level position, if it does not exceed the range of the position to which the employee is being reclassified.

Support, maintenance and other designated employees under the provision of the Fair Labor Standards Act (FLSA) shall be required to report all time worked. Currently, our method of recording is by use of a timesheet. Each support, maintenance and designated professional employees shall accurately record his/her time when reporting for work, when on their lunch period, when the employee leaves for the day, any overtime, compensation time or holidays. Any and all overtime/compensation time must have prior approval from the supervisor and the President. An explanation of the overtime duties performed will be required on all overtime cards. These timesheets shall be used to process the payroll. Time sheets must be turned in according to the published payroll schedule. NMJC is required by law to retain these records for several years. Any infraction of this rule shall result in discipline up to and including dismissal.

**NOTE: *Falsification of timesheets is prohibited.***

Support/maintenance employees shall be entitled to rest periods of fifteen (15) minutes during each continuous four (4) hours worked. The rest period is intended to refresh the employee by breaking away from the work routine. Employees are discouraged from leaving campus during these rest periods. Essential work shall be adequately staffed throughout the workday by encouraging employees to stagger their rest periods. Rest periods are not cumulative and shall not provide for a prolonged time-off period nor may the rest period be added to the lunch hour or other off-duty time.

SECTION: Employment Procedures, Regulations, Policies and General Information

POLICY TOPIC: Support, Maintenance Employees and certain Professional

Employees: Overtime/Compensatory Time

NMJC recognizes overtime in accordance with the Fair Labor Standards Act (FLSA). Overtime is defined as the number of hours during a workweek, which exceeds forty (40) hours actually worked during the week by the employee. Overtime is computed on a weekly *not* daily basis. NMJC employees that fall under this category must have permission from their supervisor and President prior to working overtime hours. Failure to do so will result in discipline up to and including termination of employment.

As a general rule, NMJC does not budget for overtime pay and agrees to grant compensatory time off in lieu of overtime wages. Compensatory time shall be taken at a rate of time and one-half for each overtime hour worked if it is taken outside the week that it was earned. If the compensatory time is taken during the week it was earned it shall be taken hour for hour. Any request to take compensatory time in lieu of overtime pay shall be in writing. The employee must be permitted to use comp time on the date requested unless doing so would “unduly disrupt” the operations of NMJC.

Accrued compensatory time shall not be carried forward beyond the two-week period following the overtime hours worked unless approved by supervisor. All overtime worked and compensatory time taken shall be approved in advance by the employee’s supervisor and the President. As taken by the employee, compensatory time shall be reported on an official leave form and timesheet, approved by the appropriate supervisor and forwarded to the Human Resources & Payroll department for payroll documentation.

The requirements of the FLSA policy shall be strictly adhered to for proper compliance and shall not be waived by agreement between the supervisor and the employee.

Professional employees, that do not fall under this section, shall be responsible for ensuring that the requirements of the FLSA are met with respect to all employees under their supervision.

NMJC is a teaching institution and does not engage in research activities as commonly found in senior colleges and universities. As an institution primarily focused on instructional activity, any consideration of academic freedom does, of necessity, concern freedom in the instructional process.

As purveyors of ideas, employees at times may come into conflict with the prevailing belief of large segments of society and even with those of their own colleagues. Academic freedom is not easily defined because it involves a special set of guarantees. The right to support unorthodox positions, arrived at through scholarly investigation free from reprisals or coercion, is fundamental to the continued progress of society. The right to pursue unpopular lines of inquiry and express new and unaccepted ideas falls within the framework of a very special set of guarantees called academic freedom. In granting these guarantees, society expresses a willingness to risk the consequences because history confirms that the risk is outweighed by the benefits derived from such a society.

The exercise of this freedom carries with it the burden of corollary responsibilities. Employees shall not knowingly misrepresent facts. They shall be careful in their teaching not to introduce controversial matter bearing no relationship to their subject. They shall not force their own ideas and ready-made decisions on the student, but shall encourage the student to make his/her own decision in the light of all available information. They shall exercise appropriate restraint and guard against distortion and inaccuracies. Outside the academic role, as a private citizen, employees have no other special privileges. When he/she speaks or writes as a private citizen, he/she shall be free from institutional censorship or discipline; but his/her special position in the community imposes special obligations. As a person of learning and as an employee, he/she shall remember that the public may judge his/her profession and institution by his/her utterances. The employee shall be accurate, exercise appropriate restraint, show respect for the opinions of others, and make every effort to indicate that they are not a spokesperson for NMJC. Should the utterances of an employee be such as to raise grave doubts concerning his/her fitness for his/her position, institutional discipline may be imposed, which may include board action.

The NMJC Board recognizes that it is not possible to define with precision the limits of academic freedom in the complex world of ideas; however, the Board insists that its policies shall be followed.

The employee's own colleagues and NMJC shall bear the brunt of public criticism, have the most to lose from withdrawal of public trust, and are, therefore, in the best position to balance the issues of academic freedom and responsibility.

NEW MEXICO JUNIOR COLLEGE EMPLOYEE HANDBOOK

Policy No. 301

SECTION: Employee Benefits

POLICY TOPIC: Intentionally Left Blank

Page 1 of 1

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Full-Time Faculty (Exempt) Employees

NMJC expects full-time faculty employees to maintain continuous professional growth. To assist in this growth, full-time faculty employees may request to take periodic leaves of absence for further study or scholarly work, which is for advancement and is mutually beneficial to the employee and the College.

A full-time faculty employee of NMJC, who has been employed six or more consecutive years, shall be eligible for consideration for a sabbatical leave. A full-time faculty employee may request to take one-half (1/2) year of leave at full salary or one (1) year at half (1/2) salary. If the activity being undertaken is accompanied by a salary or grant that is adequate to pay travel expenses and a normal level of living, a leave of absence without salary shall be granted rather than a sabbatical leave.

Should NMJC have evidence that the employee on paid leave status is employed regularly by another school system, agency or business and industry; the salary payments shall be discontinued. In any given year, a sabbatical leave shall be granted to not more than two (2) faculty employees.

Full-time faculty employees shall be required to sign an agreement to return the full amount of compensation received, including salary and benefits, while on leave (assuming they are offered a contract for the year following the sabbatical leave), if they decide not to return to NMJC for at least one (1) year of service.

Applications shall be made by the second Monday in November of the school year, prior to the school year during which the leave shall begin, and any exceptions shall be approved by the President. Approval of a sabbatical leave shall be subject to the provisions of applicable New Mexico state statutes. The application for a sabbatical leave shall include a detailed statement describing the program to be followed while on leave and indicating the contributions it is expected to make to the employee's professional improvement and to his/her ability to serve NMJC.

Applications for a sabbatical leave shall be submitted through the appropriate Dean and the Vice President for Instruction, who shall submit their recommendations by the end of

January to the President.

Final approval shall be given in writing by the President. Likewise, no later than March 1, stated cause for disapproval shall be given in writing by the President.

Subject to and consistent with the group health, dental, vision, long-term disability, voluntary life and basic life insurance plans, coverage shall be continued during a sabbatical leave. The employee pays a prorated share of the premiums. Retirement plan contributions shall continue during a sabbatical leave. Sick leave benefits shall continue during a sabbatical leave on a prorated basis (full for one-half year, one-half for one year).

Upon successful completion of the sabbatical leave, the employee shall be eligible for percentage increase consideration on the salary plan for the time spent on the leave. Also the recipient shall submit a report of the results of the leave within ninety (90) days following return from the leave. The report shall be presented to the NMJC Board through the appropriate dean or supervisor. The report shall include:

- I. An account of activities during the leave including travel itineraries, institutions visited and persons consulted.
- II. A statement of progress made on the sabbatical leave program as proposed in the application and an explanation of any significant changes made in the program.
- III. An appraisal of the relationship between the results obtained and those anticipated in the sabbatical leave program statement.

Full-time employees on twelve-month assignments shall accrue sick leave at 13.33 hours (1.67 days) for each month of continuous service up to twenty (20) working days for the fiscal year.

Full-time employees on nine-month assignments shall accrue sick leave at eight (8) hours for each month of continuous service up to fifteen (15) working days for the academic year.

Employees on a nine-month contract are allowed to use a maximum of one day of accumulated sick leave during each summer semester taught.

Sick leave is cumulative to a maximum of 960 hours (120 days). Accrued sick leave shall be provided as a privilege to be used only when a valid medical need arises and is to be reported in a minimum of fifteen (15) minute increments for full-time employees on twelve-month assignments and for full-time employees on nine-month assignments, sick leave is to be reported in two (2) hour increments for a partial day's absence or five (5) hours for a full day's absence for the following:

- I. Accrued sick leave may be used as available for personal illness or for illness of an employee's immediate family members including spouse, children or any other legal dependents.
- II. Accrued sick leave may be utilized up to a maximum of three (3) days per contract year for each of the following extended family members: parents, brother, sister, grandparents, grandchildren, spouse's parents, or spouse's brother or sister. The President may extend leave beyond the approved three (3) days.
- III. Accrued sick leave may be utilized up to a maximum of five (5) days for the death of each of the following employee's family members and immediate family and extended family members: spouse, children, any legal dependents, parents, brother, sister, grandparents, grandchildren, spouse's parents, or spouse's brother or sister. The President may extend leave beyond the approved five (5) days.
- IV. Accrued sick leave shall run concurrent with the Family and Medical Leave Act (FMLA) for qualifying conditions.

- V. NMJC requires that the FMLA leave run concurrent with paid vacation and personal or sick leave with pay for any qualifying conditions. This also applies to the Transfer of Accrued Sick Leave, (policy 309).

Departmental workloads shall require employees to be present in order to properly meet schedule demands and to avoid placing an undue hardship on co-workers within the employee's department. The appropriate supervisor shall be notified at least one (1) hour prior to the beginning of the workday for which sick leave is requested. An employee's supervisor may request a health care provider statement as evidence of employee or family-related sick leave at any time. Should an employee demonstrate a history of abuse of accrued sick leave privileges or excessive absenteeism, the employee shall be subject to disciplinary action up to and including dismissal. Employees shall immediately turn in the leave form to their supervisor either prior to or immediately after the leave took place. Failure to turn in a leave form after being away from the office is grounds for discipline up to and including termination of employment.

When an employee is absent for three (3) consecutive working days under the terms of this policy, he/she shall be required to submit to his/her supervisor and the Human Resources Office a health care provider statement certifying that he/she is unable to work and to indicate the expected date of release in order to continue to receive paid sick leave benefits. Supervisor must notify HR for determination of FMLA eligibility.

No sick leave shall be paid during an employee's final two (2) weeks of employment, except for medical reasons per the doctor's written orders and provided to the employee's supervisor and the Human Resources Office. An employee shall **not** be paid for unused sick leave upon termination of employment.

When an employee is injured on the job, he/she shall be eligible to apply for workers' compensation benefits (see Workers' Compensation – Policy 313).

Employees on leave of absence without pay, other than FMLA, and/or long-term disability, shall not accrue sick leave or vacation benefits during the leave of absence. When a scheduled holiday occurs during the time an employee is on an unpaid leave, other than FMLA, and/or long-term disability status, he/she shall not be eligible for the holiday pay. The sick leave policy does not apply to part-time, contingent and seasonal employees or to persons teaching in the public safety and community services or continuing education/workforce development programs.

VI. Transfer of accrued sick leave. See Policy No. 309.

VII. Custodial support employees who work the night shift for an entire month will be paid a \$200.00 incentive for each month in which the employee has no absences and \$100 per month if the employee has only one absence during the month. An absence for purposes of this policy is any time the employee misses work per NMJC sick leave policy guidelines. An employee who has two or more absences is not eligible to receive the incentive for that month. Incentives earned by eligible employees are paid the following month.

Partial day absences are considered full day absences for purposes of determining the availability of the incentive. If an employee uses any amount of sick leave on two separate days during a given month, the employee will not receive the incentive for that month. In addition, an employee who has any unexcused absences during a month is not eligible to receive the incentive for that month.

Only custodial support employees who work the night shift for the entire month are eligible for the incentive. No other custodial employees are eligible for the incentive. In order for the night shift custodial support employees to be eligible for this incentive, they must have worked the entire month as a night custodial support employee.

If all requirements of the policy are met, Custodial Crew Leaders are eligible for the incentive.

For purposes of this policy, the night shift is the 3:00 pm until 11:00 pm shift. Any variation of the hours, as it relates to this policy, must be approved in writing, in advance by the President of New Mexico Junior College.

I. Basic Regulations and Conditions of Family and Medical Leave Act (FMLA)

- A. A summary of employee rights and responsibilities under FMLA is set forth in the notice that appears at the end of this Policy No. 304. Generally, eligible employees are allowed to take twelve (12) weeks of family and medical leave in the 12-month period measured forward from the date of your first FMLA leave usage. FMLA leave is a combination of paid accrued leave and unpaid leave totaling no more than twelve (12) weeks during the 12-month period measured forward from the date of your first FMLA leave usage. There are exceptions to the general leave rules for eligible employees whose spouse, son, daughter or parent is on covered active duty or call to cover active duty status. There are additional leave entitlements for eligible employees to take up to 26 weeks of leave to care for a covered service member.
- B. NMJC shall require medical certification to support the request for FMLA leave for an employee's own serious health condition or to take care of a seriously ill child, spouse or parent (Policy No. 303, I.).
- C. Leave shall be allowed on an intermittent or reduced leave schedule if medically necessary for an employee's illness or the employee's need to provide care for a spouse, child or parent.
- D. Leave to care for the employee's child after birth or receipt of an adopted infant or an infant placed in an employee's home for foster care shall be taken consecutively within the first twelve (12) months following childbirth or placement. Spouses (husband/wife) who are both employed by NMJC shall be entitled to a total of twelve (12) weeks of leave rather than twelve (12) weeks each for the birth or adoption of a child or the care of a sick parent.
- E. NMJC requires that the FMLA leave run concurrently with paid vacation, personal and sick leave with pay for any qualifying condition.

- II. Definition: A serious health condition is an illness, injury, impairment or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities, all as defined in the governing regulations. A "spouse" means a husband or wife as defined or recognized under state law for purposes of marriage in the state where the employee resides, including common law marriage in states where it is recognized.
- III. Eligibility: Individuals who have been employed at New Mexico Junior College for a total of 12 months and have worked for at least 1,250 hours over the previous 12 months shall be eligible for leave under the FMLA.
- IV. Medical and other Certifications
  - A. Employees shall give the appropriate supervisor as much notice as possible of the upcoming leave in order to limit the disruption of College operations. The leave shall be denied if requirements are *not* met.
  - B. Employees shall provide medical certification from the health care provider to support a request for leave because of a health condition, and shall provide a fitness for duty report to return to work.
  - C. Employees will be required to provide a medical certification if the leave request is:
    - 1. for the employee's own serious health condition,
    - 2. to care for a family member's serious health condition, or
    - 3. military caregiver leave.

Failure to provide the requested certification in a timely manner may result in denial of the leave until it is provided. If an employee refuses to provide a certification, his/her leave request may be denied and the employee may be disciplined.

NMJC, at its expense, may require a medical examination by a health care provider of its own choosing if it has a reasonable question regarding the medical certification provided by the employee. In lieu of a second opinion, NMJC may contact the health care provider directly to clarify or authenticate

a medical certification, including certifications for military caregiver leave. Second opinions may not be required for military caregiver leave.

Separate certification may also be required regarding the nature of the family member's military service and/or the existence of a qualifying exigency.

In the case of certification for intermittent leave or leave on a reduced leave schedule for planned medical treatment, the dates shall be stated as to when treatment is expected to be given and the duration of such treatment.

V. Benefits

- A. NMJC shall continue to contribute the employer portion of the applicable health, dental, vision, long-term disability and basic life insurance premiums during the family leave. The employee shall pay the employee's portion of the applicable health, dental, vision, long-term disability premiums and one hundred (100) percent of voluntary life premiums on a timely basis in order to continue coverage.
- B. If an employee elects *not* to return to work upon completion of an approved unpaid leave of absence, NMJC shall recover from the employee the cost of any payments made to maintain the employee's coverage, unless failure to return to work was for reasons beyond the employee's control. Benefit entitlement based upon length of service shall be calculated as of the last paid workday prior to the start of the unpaid leave of absence.

- VI. Procedures: A request for family and medical leave shall be originated by the employee. However, if NMJC determines that a condition qualifies as FMLA leave, the employee shall be given proper notice of the intent to begin the FMLA leave concurrent with another leave. An employee request for FMLA leave shall be either verbal and/or in writing, acknowledged by the immediate supervisor, and approved by Human Resources, the appropriate Vice President and the President. If possible, the request shall be submitted thirty (30)

days in advance of the effective date of the leave. Medical emergencies may determine the request cannot meet the desired calendar.

The FMLA Notice of Eligibility and Rights & Responsibilities form and the Designation Notice form will be sent to the employee.

- VII. **Return from Leave.** Upon return from leave, the employee will be restored to his/her original or an equivalent position. An employee who fails to return at the end of FMLA leave will in most cases be considered to have voluntarily resigned his/her position with NMJC. Employees who do not return to work at the end of their leave will be terminated unless they are entitled to additional leave as a reasonable accommodation under the Americans with Disabilities Act.

# EMPLOYEE RIGHTS AND RESPONSIBILITIES UNDER THE FAMILY AND MEDICAL LEAVE ACT

## Basic Leave Entitlement

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for the following reasons:

- for incapacity due to pregnancy, prenatal medical care or child birth;
- to care for the employee's child after birth, or placement for adoption or foster care;
- to care for the employee's spouse, son, daughter or parent, who has a serious health condition; or
- for a serious health condition that makes the employee unable to perform the employee's job.

## Military Family Leave Entitlements

Eligible employees whose spouse, son, daughter or parent is on covered active duty or call to covered active duty status may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered servicemember during a single 12-month period. A covered servicemember is: (1) a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness\*; or (2) a veteran who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran, and who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness.\*

**\*The FMLA definitions of "serious injury or illness" for current servicemembers and veterans are distinct from the FMLA definition of "serious health condition".**

## Benefits and Protections

During FMLA leave, the employer must maintain the employee's health coverage under any "group health plan" on the same terms as if the employee had continued to work. Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

Use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

## Eligibility Requirements

Employees are eligible if they have worked for a covered employer for at least 12 months, have 1,250 hours of service in the previous 12 months\*, and if at least 50 employees are employed by the employer within 75 miles.

**\*Special hours of service eligibility requirements apply to airline flight crew employees.**

## Definition of Serious Health Condition

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and

a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

## Use of Leave

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

## Substitution of Paid Leave for Unpaid Leave

Employees may choose or employers may require use of accrued paid leave while taking FMLA leave. In order to use paid leave for FMLA leave, employees must comply with the employer's normal paid leave policies.

## Employee Responsibilities

Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days notice is not possible, the employee must provide notice as soon as practicable and generally must comply with an employer's normal call-in procedures.

Employees must provide sufficient information for the employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the employer if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

## Employer Responsibilities

Covered employers must inform employees requesting leave whether they are eligible under FMLA. If they are, the notice must specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, the employer must provide a reason for the ineligibility.

Covered employers must inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If the employer determines that the leave is not FMLA-protected, the employer must notify the employee.

## Unlawful Acts by Employers

FMLA makes it unlawful for any employer to:

- interfere with, restrain, or deny the exercise of any right provided under FMLA; and
- discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

## Enforcement

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer.

FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

**FMLA section 109 (29 U.S.C. § 2619) requires FMLA covered employers to post the text of this notice. Regulation 29 C.F.R. § 825.300(a) may require additional disclosures.**



For additional information:  
1-866-4US-WAGE (1-866-487-9243) TTY: 1-877-889-5627  
[WWW.WAGEHOUR.DOL.GOV](http://WWW.WAGEHOUR.DOL.GOV)

U.S. Department of Labor | Wage and Hour Division



WHD Publication 1420 - Revised February 2013

Full-time professional and support/maintenance employees shall be allowed up to two (2) working days (16 hours) and faculty employees shall be allowed up to four (4) working days (20 hours) in a fiscal year for personal leave without a deduction in pay. This leave shall be eligible for personal reasons or other pressing needs. Full-time (faculty) employees on nine-month assignments may take personal leave in two (2) hour increments for a partial day's absence or five (5) hours for a full day's absence. Faculty are also allowed to take up to one unused personal leave day per each summer session taught.

Ordinarily, personal leave must be approved prior to taking it; however, it is recognized that prior approval is not always possible. Each request shall be submitted via Leave Form to the immediate supervisor for approval. Employees shall immediately turn in the leave form to their supervisor either prior to or immediately after the leave took place. Failure to turn in a leave form after being away from the office is grounds for discipline up to and including termination of employment.

The approved leave shall be reported on the absence leave form for the month in which it was taken. This leave shall not be cumulative. Requests for personal leave shall not be approved in conjunction with a pending termination or dismissal.

Personal leave for qualifying FMLA reasons shall be used concurrently with FMLA leave. Exceptions to this policy shall be approved by the President.

Faculty on nine-month contracts shall observe leave as established for students in the College calendar, with the exception that the beginning of duty in the fall and the spring shall start with the date of the initial workshop meeting or registration, whichever comes first and continues through submission of final grades and attendance at commencement.

Professional employees on twelve-month contracts shall accrue five (5) days of vacation the first year (3.33 hours per month), ten (10) days the second year (6.67 hours per month) and fifteen (15) days (10.00 hours per month) thereafter. All vacation shall be coordinated with the immediate supervisor and approved in advance. Failure to turn in a leave form after being away from the office is grounds for discipline up to and including termination of employment.

Support/maintenance employees on twelve-month status shall accrue five (5) days of vacation the first year (3.33 hours per month), ten (10) the second year (6.67 hours per month), and fifteen (15) days (10.00 hours per month) thereafter. All vacation shall be coordinated with the immediate supervisor and in advance.

Employees shall immediately turn in the leave form to their supervisor either prior to or immediately after the leave took place. ***Failure to turn in a leave form after being away from the office is grounds for discipline up to and including termination of employment. Vacation allowance for employees is not cumulative from year to year.***

However, if accrued vacation leave is not used by December 31 and you earn one week's vacation, you can only carry over 20 hours, if you earn two weeks vacation, you can only carry over 40 hours and if you earn 3 weeks vacation, you can only carry over 60 hours.) In the event an employee retires, resigns or is not re-employed, all authorized earned vacation days/hours shall be paid to the employee by NMJC. Employees with less than three (3) months of employment, however, are not eligible for vacation pay at termination.

Employees on leave of absence without pay (other than FMLA) and/or long-term disability shall not accrue sick leave or vacation benefits during the leave of absence. When a scheduled holiday occurs during the time an employee is on an unpaid leave or long-term disability status, he/she shall not be eligible for holiday pay.

Days recognized as official school holiday leave for the fiscal year shall be subject to change from time to time and specific dates shall be published and distributed to employees upon approval by the Board and subject to New Mexico state laws:

Independence Day	Employees and Students
Labor Day	Employees and Students
Thanksgiving Break (3 days)	Employees and Students
Christmas Break (5 days)	Employees and Students
New Year's Break (5 days)	Employees and Students
Martin Luther King, Jr. Day	Employees and Students
Spring Break (5 days)	Employees and Students
Good Friday	Employees and Students
If Good Friday falls within the Spring Break Holiday, then no additional day will be given in lieu of Good Friday.	
Memorial Day	

During the holidays/breaks, the campus will be closed. No additional compensation shall be provided to professional employees (exempt status) who work during the holidays. When a scheduled holiday occurs during the time an employee is on an unpaid leave or long-term disability status, he/she shall not be eligible for holiday pay.

- I. A request for Leave Without Pay shall be requested in writing to the President prior to date of leave.

Employees may be granted a leave of absence without pay at the discretion of the President.

Employees on leave of absence without pay (other than FMLA) and/or long-term disability shall not accrue sick leave or vacation benefits during the leave of absence. When a scheduled holiday occurs during the time an employee is on an unpaid leave or long-term disability status, he/she shall not be eligible for holiday pay.

#### Reinstatement

- I. Reinstatement other than Military service (USERRA) is not guaranteed. Operating conditions or needs may make reinstatement impractical when requested.
  - A. Where practical, the College attempts to fill the employee's position with a contingent employee during the leave of absence, but reserves the right to eliminate the position or fill it with another employee.
  - B. Reinstatement is not an employee's right. The determination of reinstatement or non-reinstatement shall be at the discretion of the appropriate Vice President and the President.
- II. An employee returning from a leave of absence shall contact the Human Resources Office prior to expiration of the leave. Failure to do so shall be treated as a resignation.

- III. An effort shall be made to reinstate an employee to the same or equivalent job and salary held at the time of leaving, if such a position is available and with the approval of the President.
- IV. If the employee's previous position is no longer available and he/she is not placed in another similar position within three (3) months, or if the employee refuses a position offered to him/her, NMJC has no further reinstatement obligation. The employee shall then be terminated as a resignation.

Other General Considerations

- I. Group insurance shall be continued while the employee is on leave without pay, provided the full payment for the insurance is made with no contribution being paid by the College during the leave.
- II. The Educational Retirement Board prohibits the payment of retirement contributions, if the employee does not receive a salary. Payments for retirement credits shall be discontinued during the time of the leave without pay.
- III. An employee reinstated from leave of absence within one (1) year shall be given credit for prior service in computing the accrual rate for vacation, sick leave and other benefits.

The purpose of this policy is to establish a means by which full-time employees (contingent and seasonal employees are not included) of NMJC may voluntarily transfer accrued sick leave to other full-time employees (contingent and seasonal employees are not included) who meet the basic criteria outlined in this policy and who have expended their own accrued leave because of a catastrophic illness or injury.

I. TRANSFER OF ACCRUED SICK LEAVE

- A. New Mexico Junior College full-time employee (contingent and seasonal employees are not included) may, with approval of the College President, voluntarily transfer accrued sick leave to another full-time NMJC employee (contingent and seasonal employees are not included) according to the following schedule:
  - 1. When the receiving employee has completed at least one but less than five total years of NMJC employment, and has exhausted all his/her own accrued sick and annual leave, other NMJC employees may transfer a maximum of 40 hours each, up to a total of 200 hours of leave.
  - 2. When the receiving employee has completed five or more total years of NMJC employment, and has exhausted all his/her own accrued sick leave and annual leave, other NMJC employees may transfer a maximum of 80 hours each, up to a total of 400 hours of leave.
  - 3. Accrued sick leave shall be donated in whole hour increments with a 10-hour minimum.
- B. Sick leave may be transferred only in the event of the receiving employee's own catastrophic illness or injury, or that of an immediate family member. Immediate family member for the purposes of this section only is defined as a spouse, child, parent or parent-in-law.
- C. A health care provider's statement regarding the anticipated length of illness/injury or treatment, and in the case of an immediate family member, the need for the employee to care for the family member, must be supplied prior to any transfer.
- D. Transfer is prohibited in the case of work-related illnesses or injuries covered by workers' compensation.
- E. Transferred sick leave shall be transferred by the Payroll Department from the transferring employee's records to the receiving employee's records in the order of approved Transfer of Accrued Sick Leave form was received and on an as-needed basis.

Transfer of accrued sick leave shall be completely voluntary on the part of the transferring employee. It shall not be accompanied by the exchange of money or anything of monetary value. Any such exchange or any attempt at coercion of any employee shall be subject to disciplinary action.

A full-time employee of NMJC, their spouse, and eligible children are entitled to a total of *nine (9) credit hours* of tuition-free credit courses **or** *one (1) community development/continuing education course/offering* (with costs up to \$45.00) at no cost, per semester and per summer session, providing the minimum number of paid enrollees has been attained.

For purposes of this policy, “eligible children” shall include only children of a full-time employee or his/her spouse who, at the time they seek to enroll in a course, are: (1) eligible for coverage under the employee’s medical insurance policy through NMJC; and (2) reside full time at the same residence as the full-time NMJC employee or in NMJC housing.

A full-time employee of NMJC shall be entitled to exercise his/her tuition and fee privilege on a released-time basis from the employee’s institutional assignment, provided the course takes place during assigned working hours under the following provisions:

- I. The course is directly related to the improvement of the employee’s skills in his/her current position.
- II. The employee’s immediate supervisor has agreed and recommends that the employee could benefit from the course for current position-related skills improvement.
- III. The supervisor has determined through performance evaluation that the employee would benefit from the course for current position-related skills improvement.
- IV. The course is only taught during regular working hours.
- V. The release time has been approved by the supervisor and appropriate Vice President.

VI. Any course taken on a release-time basis shall not be eligible for budget increase provisions of the salary plan.

Employees retired under the provisions of ERB, his/her spouse, are entitled to *six (6) credit hours* of tuition-free credit course(s) per semester and per summer session provided the minimum number of paid enrollees has been attained.

Employees who are employed in one of the permanent part-time positions are entitled to *six (6) credit hours* of tuition-free credit course(s) per semester and per summer session provided the minimum number of paid enrollees has been attained.

The mission of the NMJC Campus Wellness Program is to promote organizational and individual wellness among members of the campus community through education and prevention.

I. Program Outline

- A. Each regular full-time employee who signs up for this program will be able to take one hour each week from work to participate in a physical activity.
- B. Each participant can use Caster Activity Center, the CORE or the NMJC Track. All NMJC employees will be required to scan your Staff ID.
- C. Signup will be annually.
- D. Each campus department will handle signup, and the regular full-time employee and his or her supervisor will sign all forms. All records will be submitted to and maintained at the Human Resources Office.

The minimum that each employee can take is 15 minutes, and that can be used with the lunch hour or in the afternoon.

This program is designed to give each participating employee a chance to take an hour from work each week to engage in an activity.

Sign up for the program will be during fall, spring and summer I registrations. This program is optional. Newly hired regular full-time personnel will have to wait 30 days before they are eligible for the program. All records will be housed at the NMJC Human Resources Department. Hard copies will be kept for one year and then destroyed. Electronic copies will be stored permanently.

It is recommended that a person engage in activity for a minimum of three hours each week. The College is giving the employee one hour but is asking the employee to give back two hours for this program to be successful. A participant may choose to schedule an Independent Program (on one's own) by engaging in a physical activity three hours per week or by joining a Physical Fitness class that is offered by New Mexico Junior College.

All employees of New Mexico Junior College shall be covered by the Workers' Compensation Act.

I. Reporting Accidents

- A. All accidents and injuries, no matter how minor the injury may appear, sustained by an employee in the course of his/her employment, shall be immediately reported to his/her supervisor. It shall be the immediate supervisor's responsibility to notify the Director of Administrative Services of the accident as soon as they are made aware of the accident/injury. Failure to do so shall result in disciplinary action up to and including dismissal against the supervisor and/or employee. Human Resources shall assist in preparing and processing all paperwork.

II. Compensation

- A. The New Mexico Workers' Compensation Act, 1991, provides: Wage disability benefits shall *not* be paid for an injury that results in a disability that lasts for seven (7) days or less. If the injury results in a disability that lasts for more than seven (7) days, benefits shall be paid at sixty-six and two thirds (66-2/3) percent of the average weekly wage, subject to a maximum established by the New Mexico Department of Labor.
- B. College Compensation Provisions: All absences due to a job-related injury shall be reported by the employee and signed by the appropriate director/supervisor on an NMJC leave form. Wages for the first seven (7) calendar days shall be paid by the College (provided the employee has enough sick leave accrued) and workers' compensation shall begin benefits to the employee on day eight (8) resulting in no further reduction of sick leave. If the worker is covered by workers' compensation beyond four weeks, (28) days, the first seven (7) days of compensation by the College shall be reimbursed and the employee's sick leave shall be reinstated. Sick leave and vacation shall not accrue while receiving workers' compensation only if employee is not eligible for FMLA leave. If the employee is unable to return to work for a period of time not to exceed one (1) year,

the employee may elect to retain medical and any other insurance coverage in effect at the time of the accident, but shall pay the employee's share as due. Failure to do so shall result in the cancellation of any insurance coverage for which the employee's share has not been paid in a timely manner. If the employee is not released to work after one (1) year, it shall be the employee's responsibility to apply for COBRA (Policy No. 315) in order to keep his/her insurance coverage in force. Injuries requiring leave that qualifies for FMLA leave shall be charged concurrently after the employee is provided with proper notice.

- C. Return to Work: It shall be the responsibility of the supervisor to inform the Human Resources Office of the dates the employee is off from work and when he/she is scheduled to return. When an injury involves days away from work, a medical release from the attending physician shall be required before the employee may return to work. If the individual is to return to work with restricted work activities, the return shall have the approval of the director/supervisor in consultation with the supervisor. An injured employee shall see his/her treating physician on a regular basis while on workers' compensation. Once the employee's treating physician releases the employee to work, the employee shall report to work the following day according to the doctor's release. If he/she does not do so, he/she shall forfeit any expectations he/she may have for reinstatement, further insurance coverage and other benefits of NMJC employment.
- D. Annual Fee: A quarterly deduction of \$2.00 shall be charged to the employee for the Workers' Compensation Act.

All full-time employees shall be eligible to participate in the group health insurance program. As permitted by state law, the College shall pay a designated percentage of the premium cost for the full-time employee and any eligible dependents. Retired employees may participate under the provisions of the Retiree Health Care Act. Other eligibility for coverage is per the Consolidated Omnibus Budget Reconciliation Act (COBRA, Policy No. 315).

For this purpose, a retired employee is defined as any employee who has terminated his/her employment at NMJC and who, at the time of such termination, was eligible to participate in the College group health, dental and vision, and who qualified for any retirement benefits under the New Mexico Educational Retirement Board or under social security. Inasmuch as coverage provisions change from time to time, current employees shall contact the Human Resources Office for complete information on group insurance plans.

Employees who have been enrolled in the group health, dental and/or vision insurance plans shall have the option of retaining the insurance for a specified time following termination, under the current provisions of COBRA, a continuation of health coverage law. ERISA Administrative Services, NMJC's third party administrator, will notify you of your eligibility and options to continue the medical, dental and/or vision plans and your premium costs. Your eligibility and premium costs will depend upon your reason for termination; voluntary term, involuntary term, resignation, retirement, termination for cause, or gross misconduct. NMJC Human Resources office will communicate with the terminated employee and in writing to ERISA Administrative Services the exact reason for termination.

Life insurance and/or long-term disability insurance shall not be included in this provision.

An employee's **Spouse or Dependent Child** covered by any of NMJC's group health plans (a "qualified beneficiary"), has the right to elect continuation of coverage under those plans if the person loses group health coverage as a result of any of the following qualifying events:

- Death of the employee;
- Termination of the employee's employment (for reasons other than gross misconduct) or reduction in the employee's hours of employment;
- Divorce from/of the employee;
- Employee becomes entitled to Medicare; or
- Child ceases to be a "dependent child" under the group health plans.

**The qualified beneficiary is responsible for informing NMJC of a divorce or a child losing dependent status within thirty-one (31) days of the date of the qualifying event or the date on which coverage would end under the plan because of the event. If NMJC does not receive notice within that thirty-one (31) day period, the qualified beneficiary is not entitled to elect continuation of coverage.**

**FOR A COMPLETE DESCRIPTION OF COBRA BENEFITS, RULES AND PROCEDURES, PLEASE CALL ERISA ADMINISTRATIVE SERVICES AT 1-800-233-3164 OR 1-505-988-4974 AND ASK TO SPEAK WITH THE COBRA ADMINISTRATOR.**

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SECTION: Employee Benefits

POLICY TOPIC: Group Life Insurance

Any full-time employee shall be eligible to participate in the group life and accidental death insurance program at NMJC. NMJC shall pay one hundred percent (100%) of the basic life premium cost for the full-time employee. As coverage provisions change from time to time, employees shall contact the Human Resources Office for complete information on group life insurance.

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SECTION: Employee Benefits

POLICY TOPIC: Disability Income Plan (Income Protection)

All full-time employees shall be eligible to participate in the group long-term disability plan. As coverage provisions change from time to time, employees shall contact the Human Resources Office for complete information on long-term disability.

New Mexico Junior College has a flexible benefit plan that allows full-time employees an individual choice of benefits under Section 125 of the IRC. An employee may allocate a certain amount of before-tax salary deductions to purchase covered benefits. No federal or state income tax is paid on funds allocated by the employee to this plan. Several options are available to employees under this plan:

- I. **Medical Benefit Plan Premiums:** The employee portion of medical, dental and vision insurance premiums shall be deducted from the salary before taxes are calculated.
- II. **Medical Reimbursement Plan:** Dollars may be deducted from the salary to pay for non-reimbursed medical expenses. This shall include such items as required insurance deductibles, co-payments for certain health costs, health care costs that exceed allowable plan maximums, expenses not considered ordinary under the insurance plan, routine physicals, vision care, cosmetic surgery, premiums for other health or disability insurance, etc.
- III. **Dependent Care Assistance Plan:** An employee shall be allowed to pay for child care or other eligible dependent care with before-tax dollars. Included are nursery schools, day care centers and private home care. Contributions to the plan may be increased or decreased only at the beginning of the plan year (January 1). Exceptions are a change in family status such as marriage, birth of a child, divorce or death of a family member. Contact the Human Resources Office for plan details and enrollment information.

All active full-time employees are required to participate as regular members in salary deduction payments as required by the New Mexico Educational Retirement Board. All earnings shall be subject to retirement withholding.

An Alternative Retirement Plan (ARP) is available to faculty and ERB approved professional positions. The election must be made within ninety days of employment. The ARP is a defined contribution plan in which the employee contributes the current ERB employee rate, and the employer matches with a contribution of employer rate minus three percent (3.25%). Three percent of the employer match goes to the ERB to help pay for the unfunded liability incurred by the plan.

Starting July 1, 2009, ARP employees, if they have made contributions to the alternative plan for seven years or more, have a one-time chance, for 120 days, to become members of the regular retirement plan.

PERA retirees are not eligible for ERB but have to contribute to ERB. Any PERA retiree should contact the Human Resources Office for further information.

Any ERB retiree desiring to return to work for NMJC, either on a part time or full time basis, should contact the Human Resources Office for information concerning returning to work.

Terminating employees who desire a refund/roll-over of their educational retirement contributions shall complete a refund/roll-over request form in the Human Resources Office and have their signature on the request form notarized.

Contact the Human Resources Office for complete information.

NEW MEXICO JUNIOR COLLEGE EMPLOYEE HANDBOOK

Policy No. 319

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SECTION: Employee Benefits

POLICY TOPIC: Social Security System

New Mexico Junior College does participate in Social Security payroll deductions except for a small percentage of eligible employees who on January 9, 2007 elected not to participate in the Federal Old Age, Survivors, Disability and Health Insurance (Social Security).

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Policy No. 320

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SECTION: Employee Benefits

POLICY TOPIC: Tax Deferred Retirement Plans

All full-time employees and part-time employees may participate on a salary deduction basis. As provisions change from time to time, employees shall contact the Human Resources Office for complete information.

NMJC has programs that recognizes excellent service and communicates to its employees *pride in a job well done*. Service/Retirement awards are a part of this recognition and reflect the commitment and effort of employees to earn them. Service Awards are presented at an Annual Awards Banquet in the fall and the Retirement Awards are presented at an Annual Retirement Reception in the spring.

Eligibility for service awards

- I. Current full-time employees who have attained five (5) years of continuous service and every five (5) thereafter.
- II. Only actual employment (other than contingent status) shall count as length of service for purposes of this program.
- III. The annual cut-off date for determining service awards shall be December 31.
- IV. The service awards policy shall not apply to part-time, contingent and seasonal employees or to the persons teaching in the continuing education/community development program.

Eligibility for Retirement Awards

- I. Retirement effective July 1<sup>st</sup> of current fiscal year through July 1<sup>st</sup> of upcoming fiscal year.
- II. Notification of planned retirement must be received by April 1<sup>st</sup> of the current year for recognition at the retirement reception.
- III. The retirement reception policy shall not apply to part-time contingent and seasonal employees or to the persons teaching in the continuing education/community development program.

An employee needing temporary leave for jury duty shall request approval for same from the College President through the employee's immediate supervisor. All completed leave forms shall be forwarded to the Human Resources Office.

A College employee who is subpoenaed for jury duty shall be granted temporary leave with pay from his/her assigned duties during the period of civic service. Remuneration for jury duty (exclusive of mileage) shall be submitted to the Business Office by the next regular pay period following the jury duty service or receipt of jury duty remuneration, whichever comes first.

The employee shall remit to the Business Office only that portion of jury duty pay attributable to hours compensated by the College.

NEW MEXICO JUNIOR COLLEGE EMPLOYEE HANDBOOK

Policy No. 323

SECTION: Employee Benefits

POLICY TOPIC: Witness

Page 1 of 1

The President shall grant an authorized temporary paid leave to an employee who is required as a witness to answer a subpoena regarding College-related matter.

I. Procedure for Notification, Non-Renewal of Employment Contracts

The College owes no further contractual obligation to any employee at the expiration of his/her annual contract. The College has no obligation to renew the employment contract nor does any employee have the right to expect re-employment regardless of funding source. No employee, including the President, has the authority to give express or implied assurance of employment to an employee regardless of the funding source beyond any current contract period. Continued employment for the individuals employed on the basis of external/soft money shall be contingent upon receipt of adequate funding from the outside source, as well as the College's decision in allocating funds.

II. Procedure for Non-Renewal of an Annual Contract

Upon determination by the President, if an employee's contract shall not be renewed, the President shall give a written notification, no later than March 31<sup>st</sup>. This notification shall be delivered in person by the President or the President's Designee or sent by certified mail to the last known address of the employee.

**NOTE:** *This notification procedure shall be set aside if the Board determines a reduction in force is necessary due to the economic conditions related to the College's ability to meet its fiscal obligations. (See Result of Reduction in Force/Salary Reduction, Policy No. 205).*

III. Reasons for Non-Renewal

The written notice of non-renewal need not state any reason for the decision. Non-renewal decisions shall not rely upon basis, which violate the law. An employee who asserts that the non-renewal of a contract is based upon a violation of law shall fully set forth in writing such assertion, including the basis for the assertion, and deliver it to the President within fifteen (15) days from the date of notice of non-renewal of the contract.

- I. The President, upon receipt of an employee's timely assertion that illegal grounds were relied upon in making the decision not to renew an individual contract or to terminate an at-will employee, or that a contractual employee was dismissed without just cause, shall notify the Chairperson of the Board of such assertion.
- II. The Chairperson of the Board shall notify the employee and the President within ten (10) days that a Hearing Officer shall review the action stating a specified date, time and location for the hearing.
- III. A hearing shall be held before a Hearing Officer designated by the Chairperson of the Board.
  - A. The Hearing Officer shall be appointed by the Chairperson of the Board. No person shall be appointed Hearing Officer who was directly involved or witnessed any incident allegedly involved in the determination not to renew the individual's contract, or if he/she has prejudged disputed facts, or if he/she is biased for or against any person who will actively participate in the proceedings. The College's attorney shall assist the Hearing Officer, if requested, regarding due process considerations or evidentiary decisions. The Hearing Officer, may, but need not be, an employee of the College.
  - B. The employee shall have the right to have legal counsel present at his/her expense.
  - C. The hearing shall be open to the public unless the employee requests that it be held in private.
  - D. The hearing shall be confined to a determination as to whether or *not* there exist facts, which indicate that non-renewal of the contending employee is grounded on some illegal basis. The President shall bear the burden of presenting information, which supports the action on permissible grounds.
  - E. The President and employee shall be afforded the following minimum rights to assure due process:
    1. Each party or their representative shall have the opportunity to make an opening statement.

2. Each party shall have the opportunity to present his/her case or defense by oral or documentary evidence.
3. Each party shall be afforded the opportunity to confront and cross-examine adverse witnesses.
4. Each party shall be afforded the opportunity to be represented and advised by counsel or to represent himself/herself.
5. Each party shall be afforded the opportunity to attain the assistance of the Hearing Officer in obtaining the attendance of witnesses to testify or the deposition of any witness and in obtaining any other evidence.
6. Witnesses shall be sworn or required to affirm to tell the truth prior to testifying.
7. Each party shall be afforded the opportunity to make a final argument.
8. The hearing shall be recorded by a stenographer's or mechanical device.
9. Technical legal rules of evidence shall not apply where reason and justice require waiver of strict compliance. The formal hearing is not a trial.
10. If the President makes a prima-facie case, the employee shall come forward with facts to refute the President's recommendation.
11. The Hearing Officer, upon hearing all the evidence submitted at the hearing by the parties, shall make a decision within five (5) working days after the hearing. The decision shall contain a concise summary of the evidence whether or not the claim or assertion made by the employee shall be allowed or denied.
12. Right of Review. An employee's request for review of the Hearing Officer's decision must be submitted to the Board Chairperson within ten (10) days after the decision is received. Any employee aggrieved by the Hearing Officer's decision after Formal Hearing shall have the right to have the decision reviewed by the Board. The Board shall review the record and written decision in the case, and may allow new written submissions by the parties or their representatives. The Board may in its sole discretion grant a new hearing before it to review the Hearing Officer's decision or it may conclude that there is no legitimate reason for an additional hearing. The Board through its Chairperson shall prepare

the Board's written decision, announce individual Board member's respective votes and deliver the Board's decision by certified mail to the employee within ten (10) working days after the review is concluded. The Board's decision shall be the final administrative action to which an employee is entitled. In the event the claim is allowed, a professional employee shall be offered a contract of employment, or a support/maintenance employee shall be reinstated.

I. Support/Maintenance Employees

All support/maintenance employees are AT-WILL employees. The College shall retain the right to suspend, demote, dismiss with or without cause or to take other disciplinary action against support/maintenance employees. Support/Maintenance Employees shall not be suspended or dismissed for reasons that violate the law. An employee who asserts that his/her termination or adverse employment decision is based upon the violation of his/her rights shall fully set forth such assertion in writing, to the President within fifteen (15) days from the date of any alleged illegal employment decision. The Hearing Procedure as outlined above shall be followed.

II. Professional Employees

A. Grounds for Dismissal

Any professional employee shall be suspended or dismissed by the President any time during the contract year subject to any act or event which in the opinion of the President is detrimental to the general welfare of the College, such as but not limited to the following:

1. Consolidation, reorganization, curtailment or reduction of the College staff, program or courses.
2. Misconduct in office.
3. Incompetency.
4. Insubordination.
5. Neglect of duty.
6. Drunkenness or conviction of any crime involving moral turpitude.
7. Unauthorized use of College funds, facilities, materials or any College asset for personal business or financial gain.
8. Drug abuse violation (see Appendix B).
9. Sufficient reasons, including but not restricted to instances, where an employee:
  - a. Has refused to comply with the policies of the Board.
  - b. Has been convicted of a felony.

- c. Has secured or maintained his/her position with the College through deceptive or fraudulent means.
    - d. Has participated in disruptive activities, which interfere with the normal operation of the College.
    - e. Has harassed another person or made threats by verbal/physical assault.
  10. Abuse of Position.
  11. Excessive absence from duty or absence without prior approval.
- B. Procedure for Dismissal or Suspension
  1. The President shall notify in writing the employee of dismissal or suspension as of a certain date. The notice shall specify:
    - a. Charges made against the employee.
    - b. Effective date of dismissal or suspension.
    - c. Individual right to request a hearing, which shall be made in writing within fifteen (15) days from the date of notice.
  2. Copy of the procedures for dismissal or suspension shall accompany the notice.
  3. Employee shall not conduct any activity under his/her contract after the effective date of dismissal or suspension.
  4. If the employee requests a hearing, the President shall notify the Chairperson of the Board. The Hearing Procedure as outlined in Policy No. 401 shall be followed. In the event dismissal charges are sustained and the employee is dismissed, pay shall cease immediately and any contract of employment shall be canceled. If dismissal or suspension is not upheld, salary payments shall be retroactive to the date of the employee's dismissal or suspension. The decision of the Board is the final administrative procedure and shall be binding upon the employee.

**APPENDIX A**

**EQUAL EMPLOYMENT OPPORTUNITY**

**AND**

**AFFIRMATIVE ACTION PLAN**

## AFFIRMATIVE ACTION POLICY STATEMENT

The primary purposes of New Mexico Junior College are to educate and to serve its people. The College's continued success in these efforts demands the full and effective utilization of qualified persons, regardless of race, color, religion, sex, sexual orientation, national origin, age, disability, genetic information, or veteran status. New Mexico Junior College has a continuous obligation to seek, to employ and to develop the best employees providing the College with a capable and exemplary work force, which is sound management.

In issuing the Affirmative Action Plan (AAP), New Mexico Junior College affirms its commitment and pledges its full support to equal employment compliance with Executive Order 11246. New Mexico Junior College shall continue to work diligently to ensure the College's employment and personnel matters related to recruitment, employment, training, compensation, benefits, promotions, transfers, layoffs, institutionally-sponsored education, social and recreational programs, and treatment of employees to be free from discriminatory practices.

The Human Resources Office shall have the primary responsibility for the implementation of the Affirmative Action Program and the enforcement of this policy statement.

New Mexico Junior College and its employees wish to engage the experience, intelligence and goodwill of our employees in an effort to provide genuine equal employment opportunities for everyone at the College.



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President

July 21, 2016

Date

## **EQUAL EMPLOYMENT OPPORTUNITY POLICY (EEO)**

- I. New Mexico Junior College through responsible administrative employees shall recruit, employ, train and promote in all job titles without regard to race, color, religion, sex, sexual orientation, national origin, age, disability, genetic information, or veteran status in compliance with the state and federal statutes and regulations.
- II. Administrators/supervisors shall ensure that all personnel actions such as but not limited to compensation, benefits, New Mexico Junior College sponsored training, return from layoff and social recreation programs shall be administered without regard to race, color, religion, sex, sexual orientation, national origin, age, disability, genetic information, or veteran status in compliance with the state and federal statutes and regulations.
- III. Administrators/supervisors shall base employment decisions on the principles of Equal Employment Opportunity and with the intent to further New Mexico Junior College's Affirmative Action Program (AAP).
- IV. Administrators and supervisors shall take affirmative action to ensure that the under-represented individuals, females, veterans, qualified disabled persons and disabled veterans are considered for employment and that employees in these categories are encouraged to aspire for promotion and are considered as promotional opportunities arise.

## **DISSEMINATION OF POLICY**

In order to ensure that employees, applicants for employment and others are aware that New Mexico Junior College is an equal opportunity employer and of its official policy on Equal Employment Opportunity, the following steps have been taken and shall continue to be undertaken as prescribed in the following:

- I. Internal Dissemination
  - A. The policy of EEO is contained in the *Employee Handbook* and the *College Catalog*.
  - B. Once each year the EEO policy is published in a College publication that is intended for the general reading of employees.

- C. Employees are notified of the existence of the College's EEO/AAP policies through the President's letter posted on key bulletin boards. For example, employees are advised that all aspects of employment, including but not limited to job opportunity, training programs, employee benefits, tuition privilege and social events, shall be available without regard to race, color, religion, sex, sexual orientation, national origin, age, disability, genetic information, or veteran status.
- D. The EEO/AAP programs and policies have been included in all employee orientation programs and are communicated to the applicants.

II. External Dissemination

- A. Recruiting sources are informed annually, as required by Executive Order 11246, as amended, during the first quarter of each year in writing concerning College policy. These sources are requested to recruit and to refer under-represented individuals and women for all openings.
- B. The existence of the Affirmative Action Plan shall be communicated to prospective employees.

### **RESPONSIBILITIES**

The President is responsible for the overall application of Equal Employment Opportunity/Affirmative Action Plan policies. The duties and responsibilities of the President include, but are not limited to, the following:

- I. Ensuring the Affirmative Action Program is adopted and effectively implemented.
- II. Assisting in the identification of problem areas and coordinating with the Human Resources Office in arriving at solutions to the problem areas and providing direction.
- III. Conducting regular discussions with supervisors and employees to ensure that the College's EEO/AAP objectives are being followed.
- IV. Reviewing EEO/AAP progress with the employees.

The President has designated the Human Resources Office as the Equal Employment Opportunity Coordinator for the College. The EEO Coordinator has also been given the responsibility for designing, administering and monitoring the AAP.

The EEO Coordinator's responsibilities include, but are not limited to, the following:

- I. Reviewing annually the institutional AAP.
- II. Assisting administrators in the identification of problem areas and in arriving at solutions.
- III. Serving as liaison between the College and minority organizations, women's organizations and community action groups concerned with employment opportunities of minorities and women.
- IV. Ensuring the College's continued compliance with applicable state and federal statutes and regulations.
- V. Reviewing all technical forms of compliance (i.e., posters) for conformance with federal regulations.
- VI. Measuring and ensuring the effectiveness of the EEO/AAP, conduct, as appropriate, audits of training programs, employment and promotional patterns and qualifications of all employees to ensure that protected-class employees are given full opportunity for advancement.

### **INTERNAL AUDIT AND REPORTING SYSTEMS**

The Audit and Reporting System at New Mexico Junior College has been designed to:

- I. Measure the effectiveness of the program.
- II. Indicate those areas where remedial action is needed.
- III. Determine the degree to which the College's goals and objectives have been achieved.

The audit and reporting system shall provide for maintenance of the following records:

- I. An applicant log, which shall show the date, name of applicant, race, sex, veteran status, disability status, referral source, interview date (if any), EEO-6 category of position applied for, and the final disposition.
- II. Summary data of job offers, hires, permanent promotions, resignations, dismissals, layoffs and training programs by job group, sex and minority group

identification for the twelve (12) month period immediately preceding the new plan year.

- III. Summary data of applicant flow by EEO-6 categories, and sex and minority group identification for the twelve (12) month period immediately preceding the new plan year.
- IV. The audit and reporting system at New Mexico Junior College shall include a report, as often as needed by the EEO Coordinator, indicating efforts to achieve EEO goals. The employees shall indicate any current or foreseeable EEO problem areas and outline their suggestions for solution. If problem areas arise, employees shall report them to the EEO Coordinator immediately.
  - A. The EEO Coordinator shall discuss any problems relating to implementation of the programs such as the rejection ratio, EEO charges, etc. The EEO Coordinator shall also audit the total selection and placement process, including promotion, transfer patterns, etc.
  - B. The EEO Coordinator shall report the status of the College's Affirmative Action Program to the President as needed. The President shall take any remedial steps, which are necessary to provide for the effective implementation of the program.

### **DEVELOPMENT AND EXECUTION OF ACTION PROGRAMS**

New Mexico Junior College shall make efforts to ensure personnel involved in recruiting, selection, promotion, discipline and related processes are trained in the College's affirmative action objectives and the EEO laws and regulations.

New Mexico Junior College shall develop programs as needed to facilitate the attainment of EEO/AAP objectives and to increase the utilization of under-represented individuals at the College. The following procedures shall be among those implemented to facilitate appropriate utilization of under-represented individuals at all levels of the College work force, and thereby to ensure the job relatedness of College employment and promotion of under-represented individuals that may be identified.

#### **I. Job Descriptions, Specifications and Requirements**

Administrators/supervisors have been assigned to:

- A. Analyze position descriptions to ensure they accurately reflect position functions and are consistent for the same position.

- B. Evaluate specifications for each job classification by division and department using job performance criteria. If any requirements screen out a disproportionate number of minorities or women, such requirements shall be carefully evaluated with respect to their necessity and legality.
- C. Make available approved position descriptions and worker specifications to members of management involved in the recruiting, screening, selection, and promotion process, and distribute copies to recruiting sources.

## II. Recruitment Practices

Employees shall be assigned to conduct the following types of recruitment activities:

- A. Include the phrase *equal opportunity education and employment* in all printed employment advertisements.
- B. Encourage all employees to refer qualified under-represented individuals.
- C. Recruit at colleges with predominantly minority or female enrollments where recruitment is done at schools.
- D. Participate, when appropriate, in special employment programs such as WIA, summer jobs for minority youth, work-study programs for male and female students, disabled, veterans, etc.

## III. Selection Practices

Employees have been assigned to take the following actions, among others, to ensure that the College's selection process is job-related and to eliminate any artificial barriers to the employment and promotion of protected class persons that may be identified.

- A. Review the College's application and other pre-enrollment forms and procedures to ensure that inquiries are job related.
- B. Evaluate selection methods that have a negative impact on under-represented individuals.
- C. Train interviewers on proper interview techniques, inquiries and documentation and the College's affirmative action objectives.

## IV. Promotional and Training Practices

Employees have been assigned to take the following types of actions to prepare protected class members for promotion and to assist employees in advancing to

jobs that offer more responsibility, challenge and further opportunity for advancement.

- A. Post promotion opportunities, when appropriate, on campus bulletin boards.
- B. Offer career counseling upon request to assist employees in identifying promotional opportunities, available training and educational programs to enhance promotability and opportunities for job rotation or transfer.
- C. Administer the employee evaluation program, which is designed to assist employees in meeting performance standards in a non-discriminatory manner.
- D. Evaluate requirements for promotion on job performance related criteria and ensure that under-represented individuals are not required to possess higher qualifications than required normally for the promotion.

V. Supervisory and Disciplinary Practices

Employees have been assigned to take the following actions to assist supervisors in meeting their Affirmative Action Program responsibilities:

- A. Develop and periodically review forms and instructions on supervisory practices such as in interviews, employee evaluations, counseling, training and discipline.
- B. Offer training for supervisors on the AAP objectives and job-related personnel practices.

VI. Benefits and Rules

Employees have been assigned to take the following actions to ensure that the College's facilities are desegregated and its benefits program and rules are non-discriminatory.

- A. Review periodically the College's employee benefits plans, coverage and administration procedures to ensure they do not inadvertently discriminate because of race, color, religion, sex, sexual orientation, national origin, age, disability, genetic information, or veteran status.
- B. Review periodically the College's policies to ensure the provisions do not inadvertently discriminate because of race, color, religion, sex, sexual orientation, national origin, age, disability, genetic information, or veteran status.

## COMPLIANCE WITH SEX DISCRIMINATION GUIDELINES

New Mexico Junior College fully complies with all applicable requirements of the Office of Federal Contract Compliance Programs (OFCCP) sex discrimination guidelines.

- I. Recruitment and Advertisement
  - A. The College recruits employees of both sexes for all jobs.
  - B. Employment advertisements do not express a gender preference.
  
- II. Job Policies and Practices
  - A. NMJC's EEO policy expressly indicates that the College does not discriminate against employees or employment applicants based on sex.
  - B. The College makes no distinction based upon sex in employment opportunities, wages, hours, benefits or other conditions of employment.
  - C. Disabilities caused or contributed to by pregnancy, childbirth or related medical conditions are treated the same for job-related purposes as disabilities caused or contributed to by other medical conditions under the College's health insurance (disability insurance) and sick leave plans.
  
- III. Wages
  - A. The College's salary plan shall not be related to or based on the sex of employees.
  - B. The College shall not restrict employees of one sex to certain job classifications. New Mexico Junior College shall make jobs available to qualified employees without regard to sex.
  
- IV. Affirmative Action
  - A. NMJC shall take affirmative action to recruit women and/or minorities to apply for all jobs.
  - B. NMJC shall not make distributions based on sex in any College-sponsored training programs. New Mexico Junior College takes affirmative action to ensure that both sexes have equal access to all training programs.

## SEXUAL HARASSMENT POLICY

- I. The New Mexico Junior College Sexual Harassment Policy shall cover all the employees of the College and all the students. This policy also extends to former employees and former students when sexual harassment has resulted in a change of the employee's or student's status to that of a non-employee or non-student prior to resolution of any alleged sexual harassment.
- II. Discrimination on the basis of sex is a violation of the Civil Rights Act of 1964, the Civil Rights Act of 1991 and Title IX of the Educational Amendments of 1972. New Mexico Junior College prohibits sexual harassment activity, which is a form of sexual discrimination, by any of its employees or students. Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature constitute sexual harassment when:
  - A. Submission to such conduct is made either explicitly or implicitly as a term or condition of employment or instructional service.
  - B. Submission to such conduct has the purpose or effect of interfering with an individual's work; or classroom performance; or creating an intimidating, hostile or offensive workplace, classroom or campus environment.
  - C. Submission to or rejection of such conduct by an individual is used as the basis for delivery to or withholding of the institution's services.
- III. Unwelcome conduct of a sexual nature and a hostile work, classroom or campus environment includes, but is not limited to, the following:
  - A. Verbal or physical sexual advances, including subtle pressure for sexual activity; touching, pinching, patting or brushing against; flirtations or verbal abuse of a sexual nature; graphic comments regarding physical or personality characteristics of a sexual nature; displaying of sexually suggestive objects or pictures in the work place; and sexually oriented kidding, teasing, double-entendre and jokes.
  - B. Verbal or physical conduct of a sexual nature shall constitute sexual harassment when the allegedly harassed employee or student has indicated, by his/her direct communication or conduct, that it is unwelcome.
- IV. Policy and Procedures for Employees
  - A. Any employee who believes that he/she is the object of sexual harassment or who has knowledge of any sexual harassment of any other employee or

student shall immediately report it to a supervisor or the Director of Administrative Services, or to any other administrator, or to the Human Resources Office. A prompt confidential investigation shall be conducted of any reported sexual harassment. Charges of sexual harassment shall be made as soon as possible after the alleged occurrence. Appropriate disciplinary action, up to and including dismissal or suspension of employment, shall be taken against any employee who is found to have been responsible for sexual harassment or for knowingly permitting a sexually hostile environment to exist.

- B. Confidentiality shall be maintained within the limits of an investigation and no reprisals or retaliation shall be allowed to occur as a result of good faith reporting of charges.
- C. Complaints of sexual harassment or unwelcome conduct of a sexual nature shall be formally pursued under the EEO discrimination grievance procedure.

V. Policy and Procedures for Students

- A. Any student who believes that he/she is the object of sexual harassment or who has knowledge of any sexual harassment of any other student or employee shall immediately report it to the Vice President for Student Services or his/her appointed designee. A prompt confidential investigation shall be conducted of any reported sexual harassment. Charges of sexual harassment shall be made as soon as possible after the alleged occurrence. Appropriate disciplinary action, up to and including suspension or dismissal of a student, shall be taken against any student who is found to have been responsible for sexual harassment or for knowingly permitting a sexually hostile environment to exist.
- B. Confidentiality shall be maintained within the limits of an investigation and no reprisals or retaliation shall be allowed to occur as a result of good faith reporting of charges.
- C. Complaints of sexual harassment by students or unwelcome conduct of sexual nature by a student shall be formally pursued under the disciplinary procedure and/or the grievance procedure within the *Student Handbook*.

## **COMPLIANCE WITH GUIDELINES ON DISCRIMINATION BECAUSE OF RELIGION OR NATIONAL ORIGIN**

New Mexico Junior College fully complies with all applicable requirements of the guidelines because of religion or national origin.

### **I. Equal Employment Opportunity Policy**

- A. NMJC's EEO policy expresses its commitment to prohibit discrimination based on religion or national origin against applicants for employment and employees in employment, upgrading, demotion, transfer, recruitment, recruitment advertising, layoff, termination, rates of pay and other forms of compensation and selection for training.
- B. The College's policy expresses its commitment to take affirmative action to ensure that applicants are employed and employees are treated equally during employment without regard to their religion or national origin.

### **II. Personnel Practices**

- A. The College's employment practices, including those affecting top and middle management levels, afford fair consideration for job opportunities to members of the various religious and ethnic groups.
- B. The College undertakes appropriate outreach and positive recruitment activities to ensure that it does not discriminate on the basis of religion or national origin, including, as appropriate:
  - 1. Communicating internally the College's obligation to provide equal employment opportunity without regard to religion or national origin in a manner, which fosters understanding, acceptance, and support among the College's executive, management, supervisory and other employees, and encourages them to take the necessary action to aid the College in meeting this obligation.
  - 2. Utilizing internal monitoring procedures to ensure that the College's obligation to provide equal employment opportunity without regard to religion or national origin is being fully implemented.
  - 3. Informing all employees periodically of the College's commitment to equal employment opportunity for all persons, without regard to religion or national origin.
  - 4. Enlisting the assistance and support of all recruitment sources for the College's commitment to provide equal employment opportunity without regard to religion or national origin.
  - 5. Reviewing employment records to determine the availability of

promotable and transferable members of various religious and ethnic groups.

### III. Religious Accommodation

New Mexico Junior College accommodates the religious observances and practices of employees and prospective employees unless the College is unable to reasonably accommodate an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the College's business.

### **PARTICIPATION IN COMMUNITY ACTION PROGRAMS**

- I. Employees, administrators and supervisors in particular, are encouraged by New Mexico Junior College to take the following community oriented actions, among others, to enhance employment opportunities of minorities and women:
  - A. Serving on community relations boards, merit employment counsels and similar organizations.
  - B. Supporting vocational guidance institutes, vestibule training programs and similar activities.
  - C. Assisting secondary schools and colleges, upon request and as feasible, in programs designed to enable minority and female graduates to compete in the open employment market on a more equitable basis.
  - D. Supporting programs developed by organizations concerned with employment opportunities for minorities and women.

### **REAFFIRMATION OF THE POLICY CONCERNING PERSONS WITH DISABILITIES**

Throughout the College, there is a determination to take voluntary, positive action that shall contribute to the reduction of any form of discrimination while furthering New Mexico Junior College's progress. A related determination is to assure that managers and employees comply with both the spirit and intent of federal, state and local legislation; government regulation; and executive orders in providing affirmative action as well as equal opportunity without regard to race, color, religion, sex, sexual orientation, national origin, age, disability, genetic information, or veteran status.

There is a continuing and urgent need for supervisors to take affirmative action in providing employment opportunities for qualified individuals with disabilities. Supervisors shall assure through action, accommodation and teaching that positive steps are being taken to

comply with the policy and to meet the requirements of law, while achieving the stated objectives of the College for continued responsible growth and success.

With respect to an individual, “disability” means: 1) a physical or mental impairment that substantially limits one or more of the major life activities of such individual; 2) a record of such impairment or; 3) being regarded as having an impairment such as describe in 1) above. An impairment is a disability if it substantially limits the ability of an individual to perform a major life activity as compared to most people in the general population. The determination of whether an impairment substantially limits a major life activity requires an individualized assessment.

It is the policy of New Mexico Junior College to make reasonable accommodation to the known physical or mental limitation of an otherwise qualified applicant or employee with a disability, unless the accommodation would result in an undue hardship, health or safety concern.

## **DISCRIMINATION GRIEVANCE PROCEDURE**

It is the policy of New Mexico Junior College to work with employees in finding fair and just solutions to problems such as discrimination. The purpose of this procedure is to provide employees a means to have these problems or disputes heard, investigated and resolved without fear of reprisal. It is intended that these problems be resolved at the lowest possible administrative level. With cooperation between employees and supervisors, this shall be achieved; however, should the need arise; the grievance procedure may be used, if necessary.

The Human Resources Office/Affirmative Action Plan Coordinator shall assist employees or supervisors in either the preparation or resolution of appeals.

### **I. General Procedures**

- A. The grievance procedure shall be disseminated to every employee as an integral part of the EEO/AAP document. Each employee shall understand the encouragement to resolve problems with objectivity, freedom from fear of retaliatory consequences or reprisals and within a reasonable amount of time.
- B. These procedures apply to all grievances, which may arise in matters involving rights provided for under the AAP, which directly affect the personal interests and well-being of an individual employee.

- C. Where a dispute exists as to whether a particular matter is subject to coverage by these grievance procedures or by other policy or procedures, the College reserves the right to make the final judgment on that question.
- D. The President shall interpret the coverage of these procedures and shall deny application of these procedures where the matter in question clearly concerns issues other than discrimination based on race, color, religion, sex, national origin, age, disability, genetic information, or veteran status.

## II. Informal Grievance

- A. The employee is encouraged to discuss a problem or complaint with his/her immediate supervisor in an attempt to resolve the problem prior to filing a formal complaint.
- B. If the grievance remains unresolved, he/she shall discuss it with his/her department/division supervisor.
- C. If circumstances of the grievance prevent using Step 1 and/or Step 2, or if the department/division supervisor does not resolve the grievance within five (5) working days, the employee shall discuss the grievance with the Human Resources Office/Affirmative Action Plan Coordinator.
- D. If the grievance involves a question or opinion not covered by the state or federal non-discriminatory regulations, the Human Resources Office/Affirmative Action Plan Coordinator shall counsel with the employee, the supervisor and/or the department/division supervisor to resolve the grievance.
- E. Any retaliatory action of any kind taken by any employee of the College by or against any other employee as a result of that person's seeking redress under these procedures, cooperating in an investigation or other participation in any proceeding under these procedures is strictly prohibited.

## III. Formal Grievance

- A. If an aggrieved employee alleges discrimination, and if his/her grievance has not been resolved by informal appeal, he/she shall submit a request in writing to the Human Resources Office/Affirmative Action Plan Coordinator to have the grievance considered by a formal grievance committee.
- B. Procedure:
  - 1. A written request for a formal EEO grievance hearing shall clearly state the alleged discrimination and shall include the nomination of one full-time employee who is willing and available to serve as a member of a grievance committee.

2. The Human Resources Office/AAP Coordinator shall either approve or disapprove the request for a formal hearing. If the request is disapproved, the Human Resources Office/AAP Coordinator shall state the reasons therefore in writing. If approved, the Human Resources Office/AAP Coordinator shall appoint a grievance committee to meet within ten (10) days or as soon thereafter as possible. Such a committee shall include:
    - a. The employee so named in the original request or a substitute employee satisfactory to the aggrieved.
    - b. An employee nominated by the Human Resources Office/AAP Coordinator.
    - c. A third person selected by mutual agreement of the other two (2) members shall serve as committee chairperson. The chairperson shall be any regular full-time employee who is willing and available to serve in this capacity. If the two (2) members cannot agree upon a chairperson, the chairperson shall be appointed by the President.
  3. The Human Resources Office/AAP Coordinator shall serve as secretary and advisor to the committee but shall not vote.
- C. The grievance committee shall hear the grievance and may call such witnesses, as it deems relevant to the grievance and necessary to make its determination. Proceedings shall be open or closed at the discretion of the grievant. Since these proceedings are internal institution procedures, participation is limited to full-time employees. This limitation shall not apply to witnesses that may be called by either side. Deliberations shall adhere strictly to due process and the proceedings shall be recorded.
- D. Within fifteen (15) working days of the committee's formation, the grievance committee shall make a determination of whether there is cause to believe discrimination has occurred. The committee shall present its report and recommended action to the College President. The Human Resources Office/AAP Coordinator shall forward a copy of the decision to the grievant and other parties to the grievance.
- E. Appeal:
1. The decision of the committee may be appealed in writing to the President by the aggrieved employee, the supervisor and/or the department/division supervisor within three (3) working days of receipt of the decision.
  2. The President shall review and consider all memos, minutes and recordings of the grievance committee proceedings related to the decision.
  3. The decision of the President shall be final.

4. The aggrieved employee may pursue other appeals as provided by state and federal laws or regulations after completely exhausting all grievance procedures provided herein.

**APPENDIX B**

**NEW MEXICO JUNIOR COLLEGE  
DRUG-FREE WORKPLACE POLICY  
AND  
PROGRAM**

**NEW MEXICO JUNIOR COLLEGE  
DRUG-FREE WORKPLACE POLICY AND PROGRAM**

I. Preamble

- A. The Drug-Free Workplace Policy and Program has been adopted pursuant to federal law and the commitment of the College to a drug-free environment for the pursuit of its educational mission. Drug abuse in the workplace poses a serious threat to the health and welfare of employees and student employees; impairs work performance; jeopardizes the safety and well-being of other employees, students and members of the general public and conflicts with the responsibility of New Mexico Junior College to foster a healthy atmosphere for the pursuit of education and service for the Junior College District.
- B. This policy statement complies with the requirements of the Drug-Free Workplace Act of 1988 (Public Law No.100-690) and implementing regulations, and with DOT Federal Drug Policy, 49 CFR Parts 382 and 40.
- C. New Mexico Junior College shall comply with all state and federal requirements for drug testing. The College shall also adopt drug-testing procedures that ensure compliance with this policy.
  - 1. All employees who have a commercial driver's license (CDL) and are required to drive commercial vehicles are subject to Department of Transportation (DOT) Drug Testing Requirements.
  - 2. Such employees shall become familiar with the New Mexico Junior College DOT Federal Highway Drug Policy, a copy of which shall be provided by the Director of Administrative Services.
- D. For purposes of this drug-free policy, the workplace includes all property owned, used, leased or controlled by the College or any site where official College business is conducted. Controlled substances means those substances in Schedules I-V of Section 202 of the Controlled Substances Act (21 U.S.C. 812) and implementing regulations 21 CFR 1308.11-1308.15. Controlled substances include, but are not limited to, marijuana, cocaine (including *crack*), amphetamines, heroin, PCP, hallucinogens and certain prescription drugs. Alcohol and tobacco are not controlled substances.

II. Policy Statement

- A. The unlawful manufacture, distribution, dispensation, possession or use of controlled substances in the workplace by any employee or student of the College is strictly prohibited. Any employee engaged in the performance of work under a federal contract or grant is required, as a condition of

employment, to notify his/her supervisor if he/she is convicted of a criminal drug statute violation occurring in the workplace within five (5) days of such conviction.

- B. As a condition of employment, New Mexico Junior College employees shall abide by the terms of the policy. Violation of the drug-free policy shall result in disciplinary action, up to and including dismissal. This disciplinary action shall include requiring such an employee to participate satisfactorily in an approved substance abuse treatment or rehabilitation program as a condition of continued employment.
- C. In recognition of the dangers of substance abuse in the workplace, New Mexico Junior College shall maintain drug-free awareness programs to inform employees and other members of the College community about the issues and risks of substance abuse in the workplace.

### III. Responsibility

The President of the College shall be responsible for the administration of the Drug-Free Workplace Policy and Program. As designated by the President, the Human Resources Office shall administer this program for employees and certify the program for state and federal grants and contracts.

### IV. Program and Implementation

- A. NMJC considers the unlawful manufacture, distribution, dispensing, possession or use of controlled substances in the workplace by any employee to be an extremely serious matter that shall subject such employee to appropriate disciplinary action up to and including dismissal. This Drug-Free Workplace Policy and Program, however, shall not be intended to supersede or negate any existing policies on substance abuse, employee discipline or any additional requirements imposed on the College by state or federal law.
  - 1. The purpose of the Drug-Free Workplace Policy and Program is to inform the College's employees and students about:
    - a. Dangers of drug abuse at the College as a workplace and for education.
    - b. The College's policy for maintaining a drug-free environment.
    - c. Information on available drug counseling, rehabilitation or employee assistance programs.
    - d. Disciplinary action and penalties that shall be imposed for drug abuse violations.
- B. The Drug-Free Workplace Policy and Program shall require the Human Resources Office:

1. To provide each employee with a copy of the policy.
  2. To sign certification of the Drug-Free Workplace Policy and Program for all state and federal grants and contract proposals and agreements.
  3. To notify the appropriate state or federal contracting agencies within (10) days after receiving notice from an employee of a conviction on any criminal drug statute or of otherwise receiving actual notice of conviction.
- C. The Drug-Free Workplace Policy and Program shall require each employee, as a condition of employment:
1. To abide by the College's Drug-Free Workplace Policy and Program.
  2. To notify the Human Resources Office of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after conviction.
  3. To sign a certification of awareness of the College's Drug-Free Workplace Policy and Program.
- D. The Drug-Free Workplace Policy and Program shall require the Human Resources Office to take one of the following actions after receiving notice of any criminal drug statute conviction:
1. Determine appropriate disciplinary action according to established personnel policies and procedures up to and including dismissal.
  2. Require the employee to participate in an approved drug-abuse assistance or rehabilitation program.
- E. The Drug-Free Workplace Policy and Program shall require the College to make a good faith effort to maintain a drug-free workplace through implementation of the policies and program.

Although the Drug-Free Workplace Policy and Program applies to controlled substances, the College recognizes that alcohol abuse also poses a serious threat to the health, safety and well-being of the college community and its employees. In response to this need, a list of drug-free and alcohol awareness programs shall be maintained in the Human Resources Office and posted throughout the campus to keep employees and students informed about the issues and risks involved in the use of controlled substances and abuse of alcohol. These awareness programs shall inform employees of the provisions of this policy; the availability of counseling, rehabilitation and employee assistance programs; and the dangers of drug abuse in the workplace.

#### V. Employees in Safety Sensitive Positions

This category includes, but is not limited to, the following positions: Director of Administrative Services, Director of Physical Plant, Dean of Public Safety

and Industry, Lead Law Enforcement Instructor, Director of Corrections Academy, General Maintenance Foreman, Custodial Supervisor, Public Safety Officers/Security, Custodial, Grounds, Maintenance, all Nursing Faculty including Director of Nursing and any others who meet the requirements of safety sensitive positions, such as employees who operate vehicles on duty, use machinery creating safety issues, or are in security related jobs.

All Employees who work in safety sensitive positions on NMJC property must submit and pass a Urine Drug Screen Test and/or Blood Test or Breath Test prior to employment.

Certain investigations may require employees who work in safety sensitive areas on NMJC property to submit to a Urine Drug Screen Test and/or Blood Test or Breath Test.

Tests/inspections will be required under the following circumstances:

- A. When a safety sensitive employee's trained supervisor and the Director of Administrative Services or the Director of Public Safety has reason to believe that an employee on NMJC's property is under the influence of prohibited drugs, prescribed drugs, alcohol, or other substances; or has been in violation of this policy.
- B. When a safety sensitive employee returns to active employment after a leave of absence of thirty (30) or more days.
- C. After an on-the-job injury or following a serious or potentially serious accident or incident, including near misses, in which safety precautions were violated, unsafe instructions or orders were given, vehicles/equipment/property was damaged, or unusually careless acts were performed. If it is impossible or impractical to give a urine or blood sample because of the physical condition of the individual(s) involved in the accident and if in subsequent medical treatment of the person(s) blood will be drawn, then the medical facility's blood sample will be analyzed for drugs, alcohol, and other prohibited substances.
- D. Randomly (periodically and unannounced) testing other than to meet current specific job site requirements, will not commence until thirty (30) days following the date of this policy; however applicants for safety sensitive positions shall be subject to testing as of the date of this policy. The Search, Inspection, Urine and/or Blood Drug Screening provisions herein will be performed with concern for the personal privacy of each employee, or other person, and will also apply to contract labor, when feasible.
- E. All safety sensitive employees, as defined in this policy, will be tested

within 30 days following the date of this policy.

All persons shall have the opportunity, prior to testing, to list all prescription and non-prescription drugs they have used in the last thirty (30) days and to explain the circumstances surrounding the use of such drugs. All records containing medical information will be maintained in accordance with applicable law.

Any safety sensitive employee found in violation of this policy, or who refuses to submit to a urine and/or blood analysis, are subject to disciplinary action, up to and including termination of employment.

Any employee, or anyone else, who in any way alters, tampers with, or substitutes a urine or blood specimen, will be considered a violator of this Policy, and the employee shall be discharged.

NMJC may take into custody any illegal, unauthorized, or prohibited items or substances and may turn them over to the proper law enforcement agencies.

Any safety sensitive employee who, as a result of drug testing and screening, is found to have detectable levels or identifiable trace quantities of a prohibited drug or substance in his or her system, regardless of when or where the drug or substance entered that person's system, without an explanation satisfactory to NMJC, will be considered in violation of this Policy and are subject to disciplinary action up to and including termination.

Any Safety Sensitive employee who, as a result of drug testing and screening, is found to be under the influence of a legally prescribed narcotic while on the campus, will be considered in violation of this policy and are subject to disciplinary action up to and including termination of his/her employment.

**APPENDIX C**

**NEW MEXICO JUNIOR COLLEGE**

**Policy No. 805**

**Copyrights and Patent Ownership**

I. General Statement of Purpose

The purpose of the New Mexico Junior College Copyright, Patent and Intellectual Property Policy is to establish ownership, rights, and responsibilities with respect to copyright, patent and intellectual property created and developed by faculty or other college employees during their employment at the college.

New Mexico Junior College has a responsibility for and an interest in the advancement of knowledge and creative work that will enhance its educational mission and benefit the public it serves. The goal of this policy is fourfold:

- to encourage the development of copyright, patent and intellectual property for the best interest of the public, the creator of the copyright and intellectual, and the college;
- to provide timely disclosure and protection of copyright, patent and intellectual property whether by development, commercialization, or publication, or any combination thereof;
- to balance the rights of the creator of copyright, patent and intellectual property and the rights of the college. Creators may be faculty or other employees of the college; and
- to develop a policy that is easy to understand and implement and that is not burdensome to the creator of the copyright and intellectual property.

II. Scope

This policy applies to all full- and part-time faculty, staff, and administrators working on any project under the direction and control of New Mexico Junior College and to anyone using college facilities or conducting activities under the supervision of New Mexico Junior College personnel. Contracts between employees and the college and subcontracts between New Mexico Junior College and persons who are not college employees will include language that determines the ownership of intellectual property and copyright / patent material that is developed under the purpose of that particular contract. College employees should not enter into intellectual property agreements, without affirmative notice to the prospective employer, that the intellectual property and copyright / patent material rights of the College cannot be subordinated to a third party consulting or employment agreement.

III. Definitions

Creator(s): The author(s) or originator(s) of the copyright or intellectual property.

College Assignment: A college assignment exists when employee(s) are directed by the College to prepare the work within the scope of their employment. Work made for hire is a legal term defined in the Copyright Act as a work prepared by an employee within the scope of his or her employment or a work specially ordered or commissioned in certain specified circumstances.

Intellectual Property: Creative or scholarly work protected by patent, copyright, trademark, and trade secret laws. Such property includes but is not limited to

- creative work in traditional or technology-based media;
- inventions;
- software programs;
- distance courses, both content and presentation (ITV and Online);
- documents and databases; and
- lab manuals.

Copyrightable Material: Under the federal copyright law, copyright subsists in original works of authorship, w h i c h have been fixed in any tangible medium of expression from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of machine or device. These works include:

- Literary works such as books, journal articles, poems, manuals, memoranda, tests, computer programs, instructional material, databases, bibliographies;
- Musical works including any accompanying words;
- Dramatic works including any accompanying music;
- Pantomimes and choreographic works (if fixed, as in notation or videotape);
- Pictorial, graphic and sculptural works, including photographs, diagrams, sketches and integrated circuit masks;
- Motion pictures and other audiovisual works such as videotapes; and
- Sound recordings.

Patent: A patent is the right of ownership granted by the government to a person. It gives the person the positive right to sell his or her invention in whole or in part and the negative right to exclude others from making, using or selling the "claimed" invention throughout the jurisdiction.

College Resources: Specific use of college funds, personnel, facilities, services, equipment, and the like in the creation and / or development of intellectual property or copyright / patent material. Such resources include but are not limited to:

- college funds such as grants, stipends, additional compensation, and/or release time;
- college equipment such as audiovisual, all computer resources, computer-related tools, equipment, and software;
- developed as part of regular work load;
- college name, reputation, goodwill, and/or logo; and
- college personnel, such as librarians, graphic artists, videographers, instructional and media designers, photographers, administrative staff, and/or information technology professionals. College personnel shall be interpreted as not including the inventor of the intellectual property unless such invention included use of time normally devoted to college activities.

IV. Ownership of Copyright or Intellectual Property

The Creator of copyright or intellectual property is its owner unless:

- The work is a college assignment or qualifies as a work made for hire, then the employer or the commissioning party is considered to be the author;
- College resources were used in the creation and / or development of the intellectual property. In this event the college shall own the property; or
- A written agreement exists between the creator and the college whereby the college is established as the owner or co-owner of the intellectual property.
- Intellectual property created and / or developed prior to this policy shall be owned in accordance with applicable law.

In the case of works created under developmental grants from governmental or foundation sources prescribing ownership rights, the conditions of such grants, rather than this policy, shall govern. An exception to the policy shall exist where shared college and external grant funding exists, in which case a contract reflecting this shared funding support shall be executed.

V. Recovery of Resources

Independent Works – The college employee shall be entitled to all profits earned from copyright or intellectual property developed exclusively on the employee's time and without the use of the college facilities.

Supported Work – Profits earned from copyright or intellectual property developed totally or partially on college time with the use of college facilities, equipment or with college funding shall be shared equitably with the College as provided by an agreement between the employee and the College. In the event that college resources as defined above are used by the employee in development of the intellectual property, the college shall enter into an agreement with the employee allowing the college to recover a fair and equitable amount equal to actual cost of such college resources actually used by the employee in development of the intellectual property.

VI. Use of Copyright, Patent and Intellectual Property

If the creator of copyright, patent and intellectual property who owns the property pursuant to this policy is allowed by written agreement with the college to use the college's name and / or logo, the creator shall be required to secure written authorization to use any third party copyrighted works within the creator's work. The creator / owner shall also save and hold harmless the College from any copyright infringement claim.

To assure educational continuity, the creator of electronic or other type of course material who owns the material pursuant to this policy, upon leaving the employ of the College, may grant the College a license to use and modify the property for teaching purposes.

If the College pursuant to this policy owns electronic or other type of course material created by a faculty member or other college employee, it, upon request of the faculty member or other employee leaving the College, may grant the creator a license to use and modify the property for teaching purposes.

VII. Revisions to Intellectual Property and Copyrighted / Patented Material

Revisions to copyright, patent and intellectual property, created by a faculty member or other college employee and owned by the college pursuant to this policy may be requested by the creator or the college. If revisions are requested by the creator, the college shall have the sole authority to determine whether the requested revisions justify expenditure of college funds. If the revisions are requested by the college, the creator shall complete the revisions. If the creator fails to do so, the college shall be entitled to have the revisions completed by others with notification that the revisions were not completed by the creator.

VIII. Disclosure and Agreement of Ownership

Each New Mexico Junior College employee, who during the period of employment, solely or jointly creates, authors, conceives, or invents any intellectual property, whether or not such property or material is patentable or copyrightable, should disclose it in writing to the Vice President for Instruction, so that a determination of ownership and written agreement can be prepared.

The Vice-President for Instruction shall establish procedures to ensure that any college employee creating copyright or intellectual property with college support shall enter into an agreement with the College providing either:

- Employee assigns ownership rights to the College; or
- Payment by the employee to the college of a fair and equitable amount based on the actual cost of college facilities, equipment or other physical materials actually used in producing such works. This shall also include, in any case where a copyright or intellectual property is created with college support, the agreement will provide that the College has a perpetual license to use the work without further compensation.

Questions of ownership or other matters pertaining to materials covered by this policy shall be resolved by the Vice President for Instruction in consultation with appropriate institutional representatives and legal counsel if necessary. In the event that the Vice President for Instruction and the creator(s) are unable to reach agreement regarding ownership, the Vice President for Instruction may, at his/her discretion, undertake a voluntary mediation process whereby a mutually agreeable independent third party familiar with intellectual property and guided by the principles contained in this policy shall be selected by the parties to mediate the matter(s) under dispute. The parties shall deal in good faith in seeking the prompt resolution of any disputed issues. If the parties are unable to reach an agreement, the agreement shall be tabled, leaving the parties in the status quo.

All Agreements must be approved by the President in writing to be binding on the parties. The President shall, in a fair and reasonable time, either approve the agreement, or return the agreement to the Vice-President for Instruction to make suggested changes to the agreement, or inform the Vice-President for Instruction that he/she will not approve the agreement. In the event the President fails to approve a proposed agreement, the proposed agreement, although signed by the creator, and/or the Vice President for Instruction, shall have no legal force or effect and shall not be used or considered by any party as proof of ownership or for any other purposes beyond the purpose of facilitating timely initial negotiations between the creator, and the College.

## **APPENDIX D**

# **NEW MEXICO JUNIOR COLLEGE DOMESTIC VIOLENCE AND WORKPLACE POLICY**

## **New Mexico Junior College Domestic Violence and Workplace Policy**

### **Policy Statement**

New Mexico Junior College is committed to promoting the health and safety of its employees. Domestic violence, sexual assault and stalking permeate the lives and compromise the safety of thousands of New Mexico employees each day, with tragic, destructive, and sometimes fatal results. Domestic violence occurs within a wide spectrum of relationships, including spouses, former spouses, current or former family members, co-parents of a child or between individuals who have or have had a dating or intimate relationship. Sexual assault and stalking may occur within any of those same relationships or may be perpetrated by an individual who has no direct relationship with the victim.

In addition to exacting a tremendous toll on the individuals it directly affects, the effects of domestic violence, sexual assault and stalking often spill over into the workplace, compromising the safety of both victims and co-workers and resulting in lost productivity, increased health care costs, increased absenteeism, and increased employee turnover.

The purpose of this Policy is to identify and prescribe College practices that will promote safety in the workplace and respond effectively to the needs of victims of domestic violence, sexual assault and stalking

Therefore, the College, pursuant to Executive Order 2008-047 shall to the fullest extent possible without violating any existing rules, regulations, statutory requirements, and contractual obligations designate and direct appropriate management, supervisory, and/or human resources staff to implement the Domestic Violence and Workplace Policy that includes the following:

### **Definitions**

For purposes of this policy, the following terms will be defined as.

**College:** New Mexico Junior College

**Domestic Violence:** A pattern of coercive behavior that is used by a person against a household member, as defined in NMSA 30-3-11(A), to gain power and control over the other household member in the relationship. This behavior may include any of the following: physical violence, sexual abuse, emotional and psychological intimidation, verbal abuse and threats, stalking, isolation from friends and family, economic control, and destruction of personal property.

**Batterer, Perpetrator, or Abuser:** An individual who commits domestic violence, sexual assault, or stalking.

**Survivor or Victim:** An individual subjected to domestic violence, sexual assault, or stalking.

**Sexual assault:** An act of sexual violence whereby a party forces, coerces, or manipulates another to participate in sexual activity. This behavior may include rape, attempted rape, child sexual assault, attempted child sexual assault, criminal sexual contact, exposure, and voyeurism.

**Stalking:** Purposely pursuing a pattern of conduct directed at a specific person when the individual knows or should know that the pattern of conduct would cause a reasonable person to fear for his or her safety or the safety of a household member. The “pattern of conduct” means two or more acts, including, but not limited to, acts in which the individual directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person’s property.

**Domestic Violence Response Team/Responder:** Designated employees, with specialized training to handle disclosures, referrals, and office safety planning and with management or supervisory responsibility, are Responders. *Contact the Director of Administrative Services for the current list of qualified Responders.*

**Designated Family Member:** Is a victim who is the employee’s minor child or an incapacitated adult, where the employee is the guardian of the incapacitated adult.

**Workplace:** An employee is considered to be in the workplace when the employee is conducting College business, is using College resources or equipment, is using a vehicle that is owned or leased by the College or its agencies or is attending work-related events or traveling on work related business.

**Workplace Safety Plan:** A strategy developed in collaboration with a victim or survivor to implement workplace safety options.

## **Guidelines**

### **I. Employee Awareness**

The College shall increase awareness of domestic violence and inform employees of available sources of assistance.

- a. The College shall include information on domestic violence, sexual assault and stalking awareness and services in written materials provided to new employees and as part of new employee orientation.
- b. The College shall integrate information on domestic violence, sexual assault and stalking and the College’s workplace policy into existing materials and literature, policies, protocols, and procedures, as appropriate.

- c. The College shall maintain, publish and post in locations of high visibility such as bulletin boards, break rooms and online sources, a statewide list, created by the Department of Children, Youth and Families (CYFD), with contact information for counseling, advocacy and referral resources of victims of domestic violence, sexual assault and stalking, as well as counseling resources for perpetrators. Additional referrals may be made to best meet the needs of the employee.

## **II. Non-Discriminatory and Responsive Personnel Policies for Victimized Employees**

The College shall ensure that policies and procedures do not discriminate against victims of domestic violence, sexual assault and stalking, and are responsive to the needs of victims of these offenses.

Employees who are victims of domestic abuse or who are the parent or legal guardian of a minor child who is the victim of domestic abuse shall be entitled to intermittent paid or unpaid leave time for up to fourteen (14) days in any calendar year. Such leave may be for up to eight (8) hours in one day and must be for the purpose of obtaining or attempting to obtain an order of protection or other judicial relief from domestic abuse or to meet with law enforcement officials, consult with attorneys or the district attorneys' victim advocates or attend court proceedings related to the domestic abuse of the employee or family member.

When possible, Domestic Abuse Leave should be requested in advance by submitting a request to the employee's immediate supervisor. When Domestic Abuse Leave is taken in an emergency, the employee or the employee's designee shall give notice to the employee's supervisor within twenty-four (24) hours of commencing the leave. Upon request, employees requesting such leave shall provide one of the following forms of verification: a police report indicating domestic abuse; a copy of an order of protection or other court evidence produced in connection with an incident of domestic abuse; or a written statement of an attorney representing the employee or other official that the employee or the employee's minor child appeared or is scheduled to appear in court in connection with an incident of domestic abuse.

An employee may use accrued vacation or personal leave if the employee wishes to be paid for Domestic Abuse Leave.

All information provided to New Mexico Junior College regarding a request for or the use of Domestic Abuse Leave shall remain confidential by New Mexico Junior College and shall only be disclosed when the employee consents, when a court or administrative agency orders disclosure or when otherwise required by federal or state law.

## **III. Workplace Safety Plans**

- a. The College shall take steps to comply with all known court orders of protection, particularly orders in which abusers have been ordered to stay away from the

work site. If requested by the victim of domestic violence or law enforcement, the College shall provide information in its possession concerning an alleged violation of an order of protection.

- b. The College shall incorporate responses to domestic violence, sexual assault and stalking into the College's workplace safety response.
- c. The College shall discuss with the victim of domestic violence, sexual assault or stalking the College's confidentiality policy and the limitations thereto.
- d. The College shall provide reasonable means to assist victimized employees in developing and implementing individualized workplace safety plans. Plans must address additional concerns if the victim and the offender are both employed by the same workplace.
- e. The College shall review the workplace policy annually.

#### **IV. Accountability for Employees Who Are Offenders**

The College shall hold accountable employees who engage in the following behavior: (1) using College resources to commit an act of domestic violence, sexual assault or stalking; (2) committing an act of domestic violence, sexual assault or stalking from or at the workplace or from any other location while on official College business; or (3) using their job-related authority and/or College resources to assist perpetrators in locating a victim and/or in perpetrating an act of domestic violence, sexual assault or stalking.

- 1. In cases in which the College has found that an employee has threatened, harassed, or abused an individual while in the workplace using College resources such as work time, workplace telephones, FAX machines, mail, e-mail or other means, said employee shall be subject to corrective or disciplinary action in accordance with existing College policies.
- 2. In cases in which the College has verification that an employee is responsible for a domestic violence, sexual assault or stalking related offense, or is the subject of any order of protection, including temporary, final or out-of-state order, as a result of domestic violence, sexual assault or stalking and said employee has job functions that include the authority to take actions that directly impact victims of domestic violence, sexual assault or stalking and/or actions that may protect abusers from appropriate consequences for their behavior, the College shall determine if corrective action is warranted, in accordance with existing College policies.
- 3. In cases in which any employee intentionally uses his/her job-related authority and/or intentionally uses College resources in order to perpetrate domestic

violence, sexual assault or stalking, assist an abuser in locating a victim, assist an abuser in perpetrating acts of domestic violence, sexual assault or stalking, or protect an abuser from appropriate consequences for his behavior, said employee shall be subject to corrective or disciplinary action, in accordance with existing College policies.

4. The College encourages employees who are perpetrators to voluntarily seek assistance from any entity on the community service provider list.
5. If an employee discloses that he or she is or has been a perpetrator of domestic violence, the responder should refer the employee to a CYFD approved Batterer's Intervention Program.
6. College employees who witness threats or incidents of domestic violence, sexual assault or stalking in the workplace, shall immediately notify the Director of Administrative Services/Director of Public Safety or the NMJC Public Safety Department. The employee shall not confront the perpetrator directly. Instead, the Responder will discuss the issue with the Response Team who will decide how best to address the situation.

## **V. Firearms**

Pursuant to federal law, a person convicted of a domestic violence-related crime or subject to an order of protection, under certain circumstances, forfeits the right to legally possess a firearm or long gun. Additionally, federal law contains prohibitions relating to shipping, transportation, or receiving firearms or ammunition.

- a. In addition to complying with the law, employees who are authorized to carry a firearm as part of their job responsibilities are required to notify the College if they are arrested on a domestic violence-related offense and/or served with an order of protection. Under certain circumstances, such employees are responsible for surrendering their firearms to the issuing agency or to the appropriate police agency.
- b. Should an employee fail to comply with the requirements set forth in V. a., said employee shall be subject to corrective or disciplinary action, in accordance with existing College policies. In addition, the appropriate law enforcement agency shall be notified for possible criminal action.

## **VI. Training**

- a. The College Domestic Violence and Workplace policy will be distributed to all current employees. New employees will receive the policy upon commencing employment. All employees are expected to become familiar with this policy and

- to attend domestic violence, sexual assault and stalking training as provided by the College. The policy will also be posted on the College's website.
- b. All managers, supervisors, and members of the College's Domestic Violence Response Team shall complete the Domestic Violence, Sexual Assault and Stalking in the Workplace Prevention Training developed by the New Mexico Domestic Violence Leadership Commission or a similar program provided by the College. Training shall focus on domestic violence, sexual assault and stalking awareness, workplace security and safety planning, the need for confidentiality and record keeping, conducting appropriate investigations and appropriate referrals. Training will also include information on the ways in which domestic violence, sexual assault and stalking impacts the workplace, including the potential impact on worker productivity and the safety risks to on-site personnel and visitors.
  - c. Training on domestic violence, sexual assault and stalking and its impact on the workplace should be made available upon the hiring of new personnel and College wide at least every two years. When possible, the Domestic Violence, Sexual Assault and Stalking in the Workplace Prevention Training and delivery program developed by the New Mexico Domestic Violence Leadership Commission will be integrated into existing College training programs.

## **VII. College Responsibility**

- a. The College shall set a tone communicating that domestic violence, sexual assault and stalking is behavior that will not be tolerated and that the College will actively provide information and support to employees who are victims of such abuse.
- b. The College shall, consistent with applicable law and the College policy, document all incidents of domestic violence, sexual assault and stalking that happen in the workplace. Such documents shall be kept confidential to the extent permitted by law.
- c. All Domestic Violence Response Team/Responders providing domestic violence information and support services shall document, consistent with applicable law and the College policy, the number of employees who report domestic violence, sexual assault and stalking, the number of employees that request information/services, and the number of referrals made to service providers. All information about employees who seek assistance shall be kept confidential to the extent permitted by law.

d. Information related to an employee being a victim shall be kept confidential, to the extent permitted by law and the College policy, and shall not be divulged without the written consent of the victimized employee, unless the College determines that maintaining said confidentiality puts the victim or other employees at risk of physical harm, is required by law, or is deemed necessary to enforce an order of protection. In such circumstances where a determination has been made that maintaining confidentiality puts the victim or other employees at risk of physical harm, only those individuals (College employees and/or safety and security personnel and/or rescue and first aid personnel) as deemed necessary by the College to protect the safety of the victim and/or other employees or to enforce an order of protection shall be given such information. The College shall disclose only the minimum amount of information necessary to protect the safety of the victim and/or other employees or enforce an order of protection. Where possible, the College will provide to the victim with notice of the intent to provide information to other employees and/or safety personnel. It is important for the College to inform a victim of domestic violence of the College policy of confidentiality toward domestic violence information and the limitations of that policy. Nothing herein shall prevent the College from investigating an act or acts of domestic violence that happen within the workplace. The College shall provide examples of situations where confidentiality cannot be maintained such as the following:

1. Supervisors/managers may be informed about a domestic violence, sexual assault or stalking incident that happens in the workplace, or a report of domestic violence, sexual assault or stalking if it is necessary to protect the safety of the employee or the employee's co-workers.
2. First aid and safety personnel may be informed about a domestic violence, sexual assault or stalking incident that happens in the workplace or a report of domestic violence, sexual assault or stalking if it is necessary to protect the safety of the employee or the employee's co-workers.
3. The College or law enforcement investigating a domestic violence, sexual assault or stalking incident that happens in the workplace or a report of domestic violence, sexual assault or stalking shall be provided relevant information on request.

## **APPENDIX E**

**NEW MEXICO JUNIOR COLLEGE**

**WHISTLEBLOWER POLICY**

## **Policy Protecting Whistleblowers**

- I. The New Mexico Junior College Policy Protecting Whistleblowers shall cover all employees of, and all persons who contract with, New Mexico Junior College. This policy also extends to former employees and persons who contracted with New Mexico Junior college when retaliation against such person has resulted in a change of the person's status to that of a non-employee or non-contractor prior to resolution of any alleged retaliation.
  
- II. It is the policy of New Mexico Junior College that no employee of, or person who contracts with, New Mexico Junior College shall be subject to any discriminatory or adverse employment action regarding his or her terms and conditions of employment because the employee or contractor:
  - A. Communicates to New Mexico Junior College or a third party information about a practice, procedure, action or a failure to act that the employee/contractor believes in good faith violates a federal law, a federal regulation, a state law, a state administrative rule or any other law, constitutes malfeasance in public office; or constitutes gross mismanagement, a waste of funds, an abuse of authority or a substantial and specific danger to the public;
  
  - B. Provides information to, or testifies before, a public body as part of an investigation, hearing or inquiry into a matter such as described in paragraph A; or
  
  - C. Objects to or refuses to participate in an activity, policy or practice of the type described in paragraph A.
  
- III. New Mexico Junior College prohibits retaliation of any kind against employees/contractors who, in good faith, engage in any of the activities described in paragraph II. A.-C. Any employee/contractor who believes that he/she has been subjected to any form of retaliation should immediately report that conduct to his/her immediate supervisor or the Director of Administrative Services, or to any other administrator, or to the Human Resources Office. Employees are not required to approach the person who is believed to be retaliating against them. A prompt confidential investigation shall be conducted of any reported retaliation. Appropriate disciplinary action, up to and including dismissal or suspension of employment, shall be taken against any employee who is found to have been responsible for retaliation or for knowingly permitting retaliation to occur.