

## **NEW MEXICO JUNIOR COLLEGE**

### **Student Handbook**

The New Mexico Junior College (NMJC) Student Handbook is intended to supplement the material in the current New Mexico Junior College Catalog. Students are responsible for acquainting themselves with the policies and procedures outlined in the Student Handbook, Catalog, and official emails, as well as other official publications.

The codes and policies within the Student Handbook set forth the rights and responsibilities of NMJC students; outlines the standards for conduct; provides the types of interim measures and sanctions which may be imposed for a violation; provides a prompt and fair fact-finding hearing, as well as an objective review process if students elect to appeal the outcome of the fact-finding hearing.

The authority to enact and to enforce regulations of the College is vested in the Board of Trustees. The responsibility for enforcing regulations and imposing penalties is delegated to the President and any college officials the President may designate. The Office of the Vice President for Student Services is the principal agency for the administration of student discipline

Questions concerning the policies and procedures in the NMJC Student Handbook should be directed to:

#### **Office of the Dean of Students**

Ben Alexander Student Learning Center  
New Mexico Junior College  
1 Thunderbird Circle  
Hobbs, NM 88240



***Policies in the NMJC Student Handbook are subject to change.***

**New Mexico Junior College**  
**1Thunderbird Circle**  
**Hobbs, NM 88240**  
**575.392.4510**  
[www.nmjc.edu](http://www.nmjc.edu)

No person shall be excluded from participation in, denied the benefit of, or be subject to discrimination, under any program or activity sponsored or conducted by New Mexico Junior College on any basis prohibited by applicable law, including, but not limited to, race, color, national origin, religion, sex, age, veteran status, or disability.

The following person has been designated to handle inquiries regarding the non-discrimination policies related to students: Vice President for Student Services, New Mexico Junior College, 1 Thunderbird Circle, Hobbs, New Mexico 88240, (575)492-2761

Students who have disabilities and need assistance should contact Student Accessibility Services, Ben Alexander Student Learning Center, 575.492.2577.

Please check the NMJC World Wide Web Home Page at <http://www.nmjc.edu> for periodic updates and most current information.

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## Section I

### General Information

#### Communications to Students

NMJC provides an email address to all registered students and uses email as an official means of sending information to students. NMJC email shall be considered an appropriate delivery method for official communication by NMJC with students unless otherwise prohibited by Family Educational Rights and Privacy Act (FERPA) regulations. Official communications include reminders of important dates such as deadlines to pay tuition and fees, to apply for graduation, disciplinary notices etc.

#### Student Responsibilities

- Students are responsible for checking their official student e-mail regularly (at least twice a week).
- Students must be aware of mailbox capacity and insure there is sufficient space in their accounts.
- Students must recognize that certain communications may be time-critical.
- Students may forward e-mail from their NMJC account to another e-mail account at their own risk.
- Students will not be held responsible for college e-mail system malfunctions that limit their access to time critical information.

#### College Responsibilities

- The Computer Services Department is responsible for creating and maintaining e-mail accounts.
- The content of e-mail communications is the responsibility of the originating department.
- The College will not use e-mail to transmit sensitive or confidential information.
- Students should report problems with their student e-mail accounts or Internet to the Computer Services Department by emailing [tbirdwebsupport@nmjc.edu](mailto:tbirdwebsupport@nmjc.edu) or by calling (575) 492-2500.

#### Related Policies and/or Information

- Student Records Policy (in accordance to confidentiality and privacy of records) can be found in the NMJC Catalog [www.nmjc.edu/aboutnmjc/catalog.asp](http://www.nmjc.edu/aboutnmjc/catalog.asp) and NMJC Student Handbook [www.nmjc.edu/resource\\_service/student\\_handbook/index.aspx](http://www.nmjc.edu/resource_service/student_handbook/index.aspx).
- The Computer Usage Policy [www.nmjc.edu/resource\\_service/library/Library\\_policies.aspx](http://www.nmjc.edu/resource_service/library/Library_policies.aspx).

#### College Name, Documents, and Records

The use of the College's name by any person or organization in connection with any program or activity or any unauthorized use of College documents, records, or seal is prohibited without the prior written permission from the Office of the President.

## Copyright Policy for Students

The unauthorized distribution of copyrighted materials, including unauthorized peer-to-peer file sharing, is against federal copyright laws. Copyright infringement is the act of exercising, without permission or legal authority, one or more of the exclusive rights granted to the copyright owner under Section 106 of the Copyright Act. Violators of civil copyright infringement may be ordered to pay either actual damages or “statutory” damages not less than \$750 or more than \$30,000 per work infringed. “Willful” copyright infringement carries a civil penalty up to \$150,000 per work infringed and a criminal penalty of imprisonment up to five years and fines up to \$250,000 per offense. See Title 17, United States Code, Sections 504, 505. For more information, see the U.S. Copyright Office website at [www.copyright.gov](http://www.copyright.gov), especially their FAQ’s at [www.copyright.gov/help/faq](http://www.copyright.gov/help/faq). Copyright infringement, including illegal downloading or unauthorized distribution of copyrighted materials using the college’s information technology system, is a violation of the NMJC Code of Student Conduct. Violators will be subject to appropriate disciplinary action depending on the severity of the violation, including loss of information resource access privileges and suspension from the college.

## Disciplinary Authority

The authority to enact and to enforce regulations of the College is vested in the Board of Trustees. The responsibility for enforcing regulations and imposing penalties is delegated by the president and any college officials the president may designate. The Office of the Vice President for Student Services is the principal agency for administration of student discipline.

## Emergency Contact Information

In case of an emergency, it is essential that all students have updated emergency contact information on file with NMJC. To assist the college in communicating with students or on their behalf, students should update their contact information through the View Emergency Contacts link in the Student Tab in the T-Bird Web Portal.

Students in residential housing will be asked to complete a medical sheet with emergency contact information during check-in. Please make sure all emergency contact information is current. These forms are valid for one academic year and will then be destroyed.

### **Personal Address and Telephone Numbers**

It is essential that students provide NMJC with current address and telephone information. This can be viewed and updated via the Update Addresses and Phone link in the Student Tab in the T-Bird Web Portal.

## Family Educational Rights and Privacy Act (FERPA)

The Registrar’s Office is responsible for the maintenance of the educational records at NMJC. This includes, but is not limited to, student transcripts. Note: Proper photo identification (driver’s license, NMJC ID card, passport or other state or federal issued identification) is required for all in-person transactions. NMJC’s policy for maintaining confidentiality of student academic records is in accordance

with the Family Educational Rights and Privacy Act of 1974 (FERPA, O.L. 93-380, 512). For more information regarding the policies and procedures for educational records please see page 56 of the [College Catalog](#).

## Free Speech

As an institution of higher learning, NMJC is dedicated to maintaining a college community that values and encourages the free exchange of ideas. The college will honor the rights of free speech, expression, petition, and peaceful assembly as set forth by law. Contact the College Relations Office about specific guidelines.

## Food and Drinks in the Classroom

Food items and soft drinks may not be consumed in NMJC classrooms. Students are also discouraged from bringing food and drink items into the classroom even though these items remain in sealed packaging. Bottled water is permissible.

## Hazing Policy for Students

Any form or participation in hazing is prohibited at NMJC and should be reported to the Dean of Students as a violation of the Student Code of Conduct. Hazing is defined as an act that endangers the mental or physical health or safety of a student, or that destroys or removes public or private property, for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in a group or organization. Participation or cooperation by the person(s) being hazed does not excuse the violation. Failing to intervene, having firsthand knowledge of the planning of hazing or of its occurrence and failing to report it to college authorities is a violation of this policy.

## Information Technology Acceptable Use Policy

NMJC 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:

- **Respect security requirements for computer accounts:**  
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 these 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 his/her password has been compromised, he/she should change the password immediately.

- **Respect copyright laws:**

Computer software use must conform to copyright laws and licensing agreements. Copyright law protects software whether or not 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.

- **Respect the rights of others using the system:**

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.

- **Respect electronic mail guidelines:**

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.

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-serves by amplifying widespread distribution of electronic mail, and sending the same electronic mail message repeatedly.

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 communication 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.

- **Respect the operational guidelines governing the use of the information technology facilities:**

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.

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, fundraising, political campaigns, or illegal purposes is not acceptable. Non-authorized solicitations on behalf of individuals, groups, or organizations are prohibited.

- **Agreement:**

All users of NMJC 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.

## Liability

The College is not responsible for damage to or loss of personal property in any building or on the grounds of the College, whether the loss occurs by fire, theft, water, or any other cause.

## Notice of Non-discrimination and Equal Opportunity

New Mexico Junior College is dedicated to providing equal opportunities in our employment and learning environments.

NMJC does not discriminate on the basis of race, color, religion, national origin, ancestry, sex (including pregnancy, childbirth, and related medical conditions), sexual orientation (including perceived sexual orientation), gender identity, marital status, spousal affiliation, disability (physical or mental), serious medical condition, age (40 and older), genetic information or veteran status or any other legally

protected categories, classes or characteristics. NMJC is committed to ensuring persons of all these protected classes will have access to NMJC's programs, facilities, and employment.

NMJC has designated a Title IX Coordinator who is responsible for ensuring compliance with Title IX and other state and federal laws addressing sexual and gender-based harassment, including sexual assault, sexual exploitation, sexual intimidation, intimate partner abuse, stalking, and other forms of sexual violence based on sex, gender, sexual orientation, or gender identity.

NMJC recognizes that individuals with disabilities are entitled to access, support and, when appropriate, reasonable accommodation. In compliance with Section 504 and other state and federal laws that prohibit discrimination on the basis of disability in admission, treatment and/or access to its programs and activities. NMJC has designated a Section 504 Coordinator.

Complaints or concerns regarding equal opportunity, affirmative action, Title IX, and/or Section 504 should be directed to:

**Cathy Mitchell, Vice President of Student Services**

Title IX Coordinator and Section 504 Coordinator

Ben Alexander Student Learning Center

(575) 492-2761

[cmitchell@nmjc.edu](mailto:cmitchell@nmjc.edu)

***Complaints may also be filed with the Department of Education Office for Civil Rights, the Equal Employment Opportunity Commission, and/or New Mexico Human Rights Commission.***

## **NMJC Complaint Policy and Process**

NMJC is dedicated to a process which provides that all student concerns or complaints will be handled fairly and equally without regard to race, color, sex, age, religion, disability, national origin, marital status, political affiliation, sexual orientation, or other non-merit factors. It is the policy of NMJC to provide fair and orderly procedures to resolve student concerns or complaints. Nothing in this policy prevents a student from discussing a concern or complaint informally with the appropriate college employee. The NMJC Student Complaint Process is adopted by the authority outlined in New Mexico Junior College Board Policy Number 705.

### **Informal Concern/Complaint Process**

An individual with a concern or complaint is encouraged (but is not required) to attempt an informal resolution through discussion with the involved employee, or the employee's direct supervisor or dean. If the matter is not resolved informally, the student may proceed to the formal complaint process.

### **Formal Concern/Complaint Process**

The individual must submit a written concern or complaint to the appropriate campus authority who will typically serve as the grievance officer. The submission of the written concern or complaint may be achieved through a variety of means determined by the nature of the concern or complaint and the preference of the complainant. This includes:

- [Virtual Suggestion Box](#): Anyone who has a concern or suggestion may express that concern via the Virtual Suggestion Box found at the NMJC website under Resources and Services.
- [Online Complaint Form](#): An individual who wishes to make a formal complaint may go to the NMJC website, click on “Resources and Services” on the navigation bar, then click on Complaint Form and enter their concern or complaint. This communication will go to the Director of Communications who will disseminate the information to the appropriate campus authority. If the person making the complaint provides his/her contact information, the appropriate VP will contact him/her with the resolution. This entire procedure will be documented with copies given to the student, the appropriate Vice President, the Director of Communications, and the Vice President for Student Services/Title IX Coordinator.
- Written Complaints: Written complaints may be submitted in person, via email, or via mail to the appropriate campus authority. Written complaints should include the following information: (1) Your name and contact information, (2) name of the individual and/or department against whom the concern/complaint is filed (3) a description of your concern/complaint in detail, including date(s) of the occurrence (be as specific as possible), and (4) any other attempts you have made to resolve this situation and the outcome. Send to:

**Cathy Mitchell**

Title IX Coordinator and Section 504 Coordinator

Vice President for Student Services

Ben Alexander Student Learning Center

(575) 492-2761

[cmitchell@nmjc.edu](mailto:cmitchell@nmjc.edu)

New Mexico Higher Education Department (NMHED) has the authority to help facilitate the resolution of student complaints, only after the student has utilized all internal complaint procedures at the educational institution. After receiving a Student Complaint Form, NMHED staff will review the form and attachments. If the initial review falls within the purview of NMHED they shall attempt to facilitate a resolution to the complaint by sending a copy of the complaint to the institution against which the complaint has been made. The institution must respond to the complaint within 10 business days of receipt. Please note that in some circumstances the NMHED may permit additional time for a response. All parties will be notified of the outcome of the complaint. **Student complaints about grades or student conduct may not be appealed.**

Go to [https://hed.state.nm.us/uploads/documents/NMHED\\_Student\\_Complaint\\_Form\\_7-2021.pdf](https://hed.state.nm.us/uploads/documents/NMHED_Student_Complaint_Form_7-2021.pdf) to download the NMHED Student Complaint Form. Once complete, the form and supporting attachments should be emailed to the attention of the New Mexico Higher Education Department at: [HigherEd.Info@state.nm.us](mailto:HigherEd.Info@state.nm.us).

## Photo/Video Release Form

NMJC uses photographs, photographic images, names and audio/video recordings of employees and students for general publicity in publications, public relations, promotions, publicity, and advertising. Any employees or students (or the parents of such persons, if under age 18) who do NOT want to be photographed or recorded, or to have their names, voices, or biographical materials used in connection with any such recording, must complete a Photo Opt Out Release Form and return it to the Communications office.

Unless a fully executed Photo Opt Out Release Form is on file, your image and/or likeness may at any time be captured by still photography, videography, or other photographic or electronic means. The college reserves the right to use any such image, photograph, video, or the like for any college-related purpose, including, but not limited to, promoting, publicizing, and/or advertising on behalf of the college in print publications, on the Internet, or in other media such as signage and/or presentation. Also, your presence in or around college facilities and/or properties, as well as at off-campus college-sponsored events, constitutes your consent to the capture and/or use of your image and/or voice by NMJC, and waives any claims or rights, whether in law or in equity.

Employees or students who do NOT want to be photographed or recorded, and who submit a completed Photo Opt Out Form, are responsible for removing themselves from the area in which photographing/recording is occurring, or notifying the camera operator of their opt-out status. Failure to do so may result in the employees' or students' inclusion in a photograph or recording; it will be deemed equivalent to a release and will allow the college to use that photograph or recording as it chooses.

[Photo Opt Out Release Form](#)

## **Public Information and Advertising**

Because the proper handling of publicity is of utmost importance to NMJC, it is imperative that all news releases, PSAs, photographs, ads, and promotional materials are coordinated through NMJC's College Communications Department. Prior to releasing information to off-campus agencies or extending invitations to the media to visit the campus, arrangements should be made through the College Communications Department.

## **Racial Harassment Policy**

NMJC prohibits any act, deed or speech interpreted as racial harassment, by or against, students, employees, and guests of the college. Students or employees engaging in such conduct are subject to disciplinary action ranging from probation or suspension to termination of employment.

### **Philosophy Statement**

NMJC is committed to the principles of free inquiry and free expression. Members of the college community have the right to hold, vigorously defend and promote their ideas and opinions to flourish or wither according to their merits.

Respect for this right requires that students and employees tolerate expression of views that they find offensive. All members of the educational community should however, voluntarily adopt standards of civility and good taste that reflect mutual respect, understanding and sensitivity among its diverse racial, ethnic and cultural groups.

Harassment of students or employees on the basis of race contributes to a hostile work or school environment that makes access to work or education for those subjected to it less than equal. Racist behavior also brings dishonor to the perpetrator, demoralizes and disrupts the academic community as a whole and diminishes the stature of NMJC.

Racist communication and acts demean, ridicule and humiliate the victim and also can cause serious emotional distress, impede the learning process and in the form of “fighting words” may provoke a violent response.

For all these reasons, NMJC unequivocally condemns racist behavior in all of its forms. The Dean of Students or designee has the primary responsibility for responding to an accusation or complaint of racial harassment when dealing with students. The Dean of Students or designee will follow the NMJC Student Code of Conduct procedures if deemed warranted.

[Report an incident of alleged Racial Harassment](#)

## Records

The Registrar’s Office is responsible for the maintenance of the educational records at NMJC. This includes, but is not limited to, student transcripts. The following information refers to some of the policies and procedures for educational records. Note: Proper photo identification (driver’s license, NMJC ID card, passport or other state or federal issued identification) is required for all in-person transactions. NMJC’s policy for maintaining confidentiality of student academic records is in accordance with the Family Educational Rights and Privacy Act of 1974 (FERPA, O.L. 93-380, 512). For more information about FERPA, refer to the Academic Policies section. Contact Information: Registrar’s Office, 575.492.2546

## Smoking/Use of Tobacco

NMJC is cognizant of the health hazards associated with smoking/use of tobacco for the smoker, as well as the non-smoker. In an effort to provide a healthy environment for students, employees, and others who may frequent the campus, NMJC prohibits smoking/use of tobacco inside any campus building, facility or college-owned vehicle. This also pertains to e-cigarettes, vapor pens, or any similar device not mentioned in this section.

## Solicitation on Campus

Solicitors who desire to sell merchandise, insurance, stocks, bonds, and similar items are not permitted to solicit on the campus. Non-college sponsored organizations or religious groups may use the Free Speech area by first completing the application and receiving approval from the Director of Communications. No solicitation in the Free Speech area is allowed. Exceptions may be made on the sale of merchandise when NMJC serves as a site for events such as trade shows or craft fairs or by special permission from the Vice President for Student Services. Solicitation requests from all approved NMJC organizations must complete a fundraising form available from the Communications Department. All posters or flyers which promote an event must be approved by the Communications Department, located in the Administration Building.

## Students with Contagious Diseases

NMJC recognizes that contagious diseases are a serious threat to public health. We are committed to

encouraging an informed and educated response to issues concerning infectious diseases. Individuals with HIV or hepatitis will not be discriminated against in admission to academic programs, health care or access to facilities. Students with HIV or hepatitis may attend any function or event if they are physically capable and do not pose health risks to others. All information regarding the medical status of students is confidential.

## **Voter Registration**

NMJC will make a good-faith effort to distribute a voter registration mail-out form, requested and received from the State of New Mexico, to each student enrolled in a degree or certificate program and physically in attendance at the institution, and to make such forms widely available to students (Voter Registration Amendment, section 489 Higher Education Amendment, 1998). Voter registration forms can be picked up at the Student Life Office in the Ben Alexander Student Learning Center.

## **SECTION II**

### **Campus Safety, Transportation, Traffic, and Parking**

#### **Annual Fire Safety Report**

Due to NMJC having campus housing units they are required to distribute an annual fire safety report and maintain a fire log. To view the fire log, contact the NMJC Campus Security & Safety employee on duty at 575-399-2033.

[Annual Fire Safety Report](#)

#### **Campus Security/Safety**

The College strives to maintain a safe and secure environment in which to work and study. NMJC is concerned about the protection of persons and property. The institution cannot, however, guarantee the absolute safety of any one individual. Personal safety must begin with the individual. NMJC provides a number of safety services and programs, including twenty-four-hour coverage by Campus Security and Safety employees. To reach Campus Security and Safety, please call (575) 399-2033.

NMJC Campus Security and Safety is responsible for securing buildings and providing campus-wide patrol. They also perform investigations and document incidents that occur on campus. In the event follow-up is necessary, or an incident constitutes a criminal offense, the Hobbs Police Department, Lea County Sheriff's Department or New Mexico State Police may be notified. NMJC may inform the parents or legal guardians of students under age 21 who have violated laws on the use or possession of alcohol or drugs, as allowed by the Higher Education Amendments of 1998.

Preventing crime is a responsibility shared between the College and its constituents, including students, faculty, and staff. One cannot assume someone else has reported criminal activity. Suspicion is the only reason one needs for contacting a Campus Security and Safety. If you are the victim or witness to a crime, contact Campus Security and Safety as soon as possible. It will be helpful to supply Campus

Security and Safety with as much information as possible. This will allow a campus search to begin immediately and for neighboring law enforcement agencies to be notified.

To avoid becoming a victim, the following tips are offered for your safety and property security:

- Report strangers to proper authorities.
- Avoid getting into vulnerable, no exit situations.
- Call when confronted by suspicious or threatening people.
- Keep your residence hall room locked.
- Walk in groups of at least two or call (575) 399-2033 for an escort.
- Walk with confidence and avoid walking in dark, unlit areas.
- Engrave valuables with identification numbers.
- Identify your textbooks in several places.
- Familiarize yourself with locations of telephones.
- Lock your vehicles.

Additional information concerning Campus Security and Safety, crime prevention, general safety, and security on and off campus is available through the Campus Security and Safety Office. In compliance with the Campus Crime Awareness and Campus Security Act of 1990, the College distributes descriptions of policies related to campus safety and statistics concerning specific types of crimes to all current students and employees.

## Crime Awareness Statistics

In accordance with the Campus Crime Awareness and Campus Security Act of 1990, New Mexico Junior College provides information relating to crime statistics and security measures to prospective students, matriculated students, and employees. Statistics for reported criminal activities for the previous three school years are posted on the NMJC website at [NMJC Campus Crime Report](#). For additional information and/or further breakdown of incidents reported to the Office of Campus Security and Safety, please contact the Director of Campus Security and Safety.

## Missing Student Notification Procedure

NMJC respects and promotes its students' independence and self-sufficiency. At the same time, NMJC seeks to ensure the safety and security of all persons on its campus. If you have a concern or reason to believe that an NMJC student is missing, you are strongly encouraged to make a report of your concerns to Campus Security and Safety.

### Notice of Non-discrimination and Equal Opportunity

#### 1. Reporting a Student as Missing

Any person may report any NMJC student as missing. Concerned persons should contact NMJC Campus Security and Safety at 575-399-2033. It is not necessary to wait twenty-four (24) hours before making a report to Campus Security and Safety. A report should be made if a student's whereabouts are unknown and unexplained for a period of time that would be regarded as highly unusual or suspicious by persons familiar with the student's life, habits, routines or plans.



If a report to Campus Security and Safety is not possible for some reason, you are encouraged to make a report directly to local law enforcement personnel.

## **2. What Happens When a Report is Made?**

Upon receiving a report that a student's whereabouts are unknown under circumstances indicating the student may be missing, NMJC Campus Security and Safety will immediately notify the Director of Campus Security and Safety, the Vice President for Student Services and all campus housing staff of the report. Campus Security and Safety will check all campus buildings and make a thorough attempt to locate the student on the campus. Housing staff will assist by checking their area of responsibility, including the student's room. Campus Security and Safety will also try to contact the student using available information and means of communication and may request the assistance of persons who know the student in such efforts. Other campus personnel as authorized by the Director of Security and Safety or the Vice President for Student Services may pursue additional investigative activities as are reasonable under the circumstances.

## **3. Further Actions by NMJC**

If the initial efforts by NMJC to locate a student are not successful and it is determined either that the student has been missing for twenty-four (24) hours or that the available information and circumstances reasonably suggest that the student may be injured or otherwise in danger, NMJC will notify the following persons/agencies: (a) local law enforcement; (b) any emergency contact for the student on file with NMJC; and (c) the custodial parents or legal guardians of a student under the age of eighteen (18).

NMJC also reserves the right to notify parents, legal guardians and other family members of any student who may be missing, both in the course of trying to locate the student and upon contacting local law enforcement. Once local law enforcement has been notified, NMJC will coordinate and cooperate with law enforcement regarding all additional steps to be taken in trying to locate a student believed to be missing.

## **4. Emergency Contacts; Confidentiality**

All NMJC students (both those living in student housing and those residing off-campus) can designate one or more confidential emergency contacts to be maintained in NMJC's records for such purposes. All students are encouraged to identify at least two emergency contacts and to keep such information current. Students are also encouraged to provide NMJC contact information for the College to use to reach the student in emergencies or when urgent communications need to be sent to the student. See the Emergency Contact policy elsewhere in this handbook for details regarding how to designate and update your emergency contact.

Emergency contact information will be maintained as a confidential student record by NMJC and will be accessible only by authorized college officials and law enforcement as determined appropriate by the Director of Campus Security and Safety or the Vice President for Student Services.

## 5. Safety Precautions

All students have an important role to play in keeping themselves, their fellow students and the NMJC campus safe for all. Observing common sense safety precautions can reduce the risks to you and your fellow students.

### Housing Safety

- Always keep your housing door locked.
- Do not open your door when you do not know the person knocking.

### Vehicle Safety

- Keep vehicle doors locked at all times.
- Always check your back seat prior to entering your car.
- Park in a well-lit area whenever possible.

### Personal Safety

- Be aware of your surroundings.
- Take at least one other person with you whenever possible, especially at night. NMJC Campus Security and Safety provides free on-campus security escorts to students upon request. This service is available 24 hours a day/7 days a week by calling Campus Security and Safety.
- Let your friends know where you are, how to reach you and when to expect you back (but be careful about posting such information on social networking sites).
- Put the NMJC Campus Security and Safety phone number in your cellular phone and report all suspicious activity when possible. NMJC Campus Security and Safety can be reached 24 hours a day/7 days a week at 575-399-2033.

### Computer and Internet Safety

- Do not post information on social networking sites that you would not want a stranger to know about you or your friends, your plans or your location.
- Protect your computer and data with passwords. Always log out of shared computers.

## Safety Technology

In an effort to maintain a safe and positive environment for students, employees and visitors, the NMJC Campus maintains in excess of 300 IP and Analog cameras throughout the campus. These cameras record activity and maintain the activity for approximately 90 days or indefinite if the recording is copied to a CD or flash drive.

The cameras can be viewed from different locations throughout the campus on televisions that are installed in Campus Security and Safety Department offices. NMJC Campus Security cameras are also, able to closely monitor the parking lots and hallways of all campus housing. Campus Security and Safety Officers also have access to a hand-held radar for traffic enforcement on the campus. They also have the ability to issue citations to students, employees or visitors for violations of parking laws. Speed limit signs are posted throughout the campus in addition to a variety of speed bumps which are used to limit the speed of drivers. NMJC also has a variety of crosswalks on the campus for pedestrian use.

For additional information about campus traffic and parking please refer below on page 21.

## **Student Emergency/Critical Incident Information**

NMJC is committed to providing a safe environment for all visitors, staff and students. The Emergency/Critical Incident Information sheet is intended to highlight potential areas of risk to campus personnel and facilities. NMJC has identified potential risks and has prepared a plan for emergencies. The plan will not prepare students for all eventualities; however, it is intended to give students a basic awareness of disaster preparedness. Students should familiarize themselves with the information provided and be prepared to act in the event of an emergency. (Students are encouraged to notify faculty and Accessibility Services at (575) 492-2576, of potential medical conditions that may require emergency response.)

### **Emergency Notification System (Rave)**

NMJC has entered into a multiyear agreement with Rave. This system allows certain key college personnel to send out emergency text, voice, and emails to individuals who work and attend classes on the campus during any type of emergency.

### **Building Evacuation**

In the event an occupied building of New Mexico Junior College has to be evacuated because of an emergency, the emergency notification system will be activated warning occupants of the building that there is a need to evacuate. The person who activates the emergency notification system will give specific instructions as to the immediate actions that should be taken by occupants of the building or campus. Occupants of the building are requested to evacuate in an orderly manner and proceed to the designated area that is announced on the emergency notification system. If there is an evacuation order for the building that you are in please take personal items such as purses and keys with you as it may be hours before the order is lifted and you are able to re-enter the building.

If the campus is not being evacuated, the students will be instructed through the emergency notification system that they are to report to a pre-determined "assembly area" until emergency can be evaluated and a decision can be made regarding whether to resume or dismiss classes. The "assembly areas" are distributed to students in their course syllabi. The location of the assembly areas in each building is identified by signage hung in the hallways from the ceiling.

If the campus is being evacuated, students are requested to proceed to their vehicles and drive off campus in an orderly manner observing all traffic rules. Residential students or others not having a vehicle will be provided transportation off campus in the event of an evacuation.

Periodic drills will be run by the college Campus Security and Safety to ensure that students, visitors, and employees are aware of the location of the assembly areas in the buildings.

### **Building Assembly Areas**

Staff and students are responsible for knowing the location of assembly areas in each of the NMJC buildings. Directional signs will be posted in each building. The buildings will be utilized in the event of a tornado, inclement weather, or flash flood situations. Staff and students are also requested to familiarize themselves with the locations of fire extinguishers and fire alarms in the buildings.

## Specific Emergencies

- **Tornado:** The best protection is in an interior room on the lowest level of the building. Go to an assembly area and stay until the danger has passed. If no building is available, lie in a ditch or low-lying area.
- **Fire:** Know the location of fire extinguishers and fire alarms in buildings. Activate the nearest fire alarm, or call 911. Evacuate the building in a calm, orderly manner. Your personal safety is more important than fighting the fire.
- **Inclement Weather:** From time to time inclement weather can pose problems for students and others using the college central campus and outreach centers. Traveling conditions may vary considerably, depending on the individual's home location in relation to the central campus or outreach center. No student or staff member is encouraged to travel when conditions are considered dangerous. If conditions appear to warrant closing, postponing, or restricting college activities, the President or his designee will make the decision. When a decision is made to cancel, postpone, or otherwise modify a campus or outreach schedule, the President or his designee will notify the Director of Communications. This person will post the notification on the NMJC Facebook page ([www.facebook.com/NewMexicoJC](http://www.facebook.com/NewMexicoJC)), NMJC Twitter (@NewMexicoJC), and the homepage of the NMJC website ([www.nmjc.edu](http://www.nmjc.edu)). All broadcast media will be notified including county and regional radio stations: KNMJ (100.9 FM), K00L (95.7 FM)/KEJL (100.9 FM), KLMA (96.5 FM), KYKK (11.10 AM) and (100.5 FM), KZOR (94.1 FM), KIXN (102.9 FM), KPZA (103.7 FM), KBIM-FM (94.9 FM), KTUM (107.1 FM), and KWMW (105.1) and television stations (KOAT, KOBR, KBIM-TV) using a prepared, written statement. The decisions to postpone, cancel, or otherwise restrict college classes/activities will be made by 6:00 a.m. for day activities and by 1:00 p.m. for evening activities. Changes in weather conditions during the day may necessitate campus updates for cancellation. Each supervisor will notify his/her staff of any change in schedule. In the event of an emergency or school closure the Rave system will be utilized to make timely notification to any student, faculty and/or staff member who has registered with the system. Rave messages will be sent via home phones, cell phones, NMJC emails and personal email accounts if a person has registered with the system). New Mexico Junior College normally follows the actions of the Hobbs school district.
- **Prison Escape:** In the event of an escape from the Lea County Correctional Facility, notification will be made to classes in progress and decisions will be made whether to dismiss classes. All persons are requested to be good witnesses and to report suspicious activity to NMJC Campus Security and Safety.

## Emergency Preparedness

NMJC has an emergency notification system. This system covers the entire campus, including parking areas. In the event of an actual emergency, a message will be given over the emergency system, which provides employees, students, and visitor's instructions as to the actions that are recommended. In the event of a tornado or other serious incident, on-site shelter locations have also been designated on the campus. The site maps are posted in the hallways of each building on campus.

NMJC has an emergency management plan for critical incidents. This plan is intended to highlight

potential areas of risk or vulnerability to campus personnel and facilities. The purpose of the plan is to enable all persons who might be present at NMJC during an emergency to remain calm and aid them in taking action based on known facts. NMJC has made the commitment to identify potential building and equipment areas at risk, to analyze those risks, to eliminate or minimize these risks, to actively plan and prepare to respond to emergencies by training response teams, and to prepare restoration of vital services plans for an emergency.

### **Rave**

New Mexico Junior College has partnered with Rave to provide an emergency alert system capable of delivering messages to your NMJC email account and personal email account, as well as your land line and cell phone. We have enrolled you in the program at no expense to you.

### **CARE Team**

A CARE (Concern, Assessment, Response, and Evaluation) team is a multi-disciplinary group whose purpose is meeting regularly to support its target audience (campus community) via an established protocol. The team tracks behavioral issues over time, detecting patterns, trends, and disturbances in individual or group behavior. The committee may include other college departments or personnel who are deemed to have information pertinent to the student's individual situation.

Any member of the college community who has reason to believe that a student may endanger the health, safety, or welfare of another person may report the concern by contacting the proper authority on campus like Campus Security or the Dean of Students.

[Report a Concern](#)

[CARE Team](#)

### **Transportation, Traffic, and Parking**

All state and college traffic and parking regulations governing the use of motor vehicles must be complied with on all parts of the college campus throughout all hours of the day or night. Anyone operating a motor vehicle on the NMJC campus found in violation of traffic and/or parking regulations will be subject to various sanctions, which may include temporary vehicle immobilization, payment of fine/fees, vehicle towed from campus at owner/driver expense, and/or suspension of campus driving privileges. NMJC Campus Security and Safety, Hobbs Police Department, Lea County Sheriff's Department, and/or New Mexico State Police Officers have jurisdiction and authority to enforce any and all traffic violations.

All students must register their vehicle(s) with the Student Life office and display their registration stickers at all times from the rearview mirror. Failure to comply will result in possible disciplinary action.

[Vehicle Registration Form](#)

## Traffic Regulations

All motor vehicles operating on campus must be registered within 10 days of the beginning of the initial semester of attendance. Vehicle registration can be done in the Student Life Office for free. Students must complete a form providing all necessary information to receive their parking permits.

The maximum speed limits on the College campus are 15 miles per hour. Vehicles may be operated on the circle drive and within designated parking lots only. Vehicle access to inner campus is prohibited unless prior arrangements have been made through NMJC Campus Security and Safety or the NMJC Physical Plant.

Students, faculty, and staff may park in any available parking space except for those spaces designated for handicapped, visitors, reserved for college administrators, or clearly marked parking area reserved for other use.

Only vehicles displaying an official handicap permit may park within spaces identified for handicapped use. According to New Mexico Motor Vehicle Code 66-7-352.2, it is unlawful for any person to park a motor vehicle not displaying a special registration plate or a parking placard in a designated disabled parking space. NMJC Campus Security and Safety employees are permitted to issue handicap violations citations. NMJC's parking citation fines are listed in this section under Vehicle Violations.

According to New Mexico Motor Vehicle Code 66-7-352.2, if the handicap citation is issued by a law enforcement agency or non-NMJC public safety/security employee, the fine shall not be less than \$250 and not more than \$500 for each offense. A vehicle that blocks any part of a curb cut designed for access by persons with severe mobility impairment is also considered a violation of this statute. The statute also permits the towing of vehicles at the expense of the vehicle owner for violators of this statute.

Students, faculty, and staff are required to comply with the direction of individuals representing NMJC in the enforcement of the NMJC Traffic and Parking Regulations. NMJC assumes no liability and no responsibility for losses from fire, theft, or vandalism when cars are parked on the college campus.

## Vehicle Violations and Fines

The following fine assessment schedule addresses penalties for vehicular violations. The fines listed are only for citations issued by NMJC Campus Security and Safety and not for citations that might be issued by the Hobbs Police Department, New Mexico State Police, or Lea County Sheriff's Department. All fines shall be payable directly to the Student Life Office. Vehicle owner's failure to find citation on his/her vehicle will not invalidate fine. Failure to pay fine will result in further disciplinary action which may include suspension from NMJC until record is cleared.

Failure to register vehicle	\$10
Failure to stop or yield	\$25
Parking in "No Parking Zone" (yellow curb)	\$10
Parking in fire lane/fire zone	\$25
Parking in handicapped space without proper permits	\$25
Parking outside designated space	\$10
Other (dependent on specific violations)Up to	\$50

## **Roller Skates, Rollerblades, Scooters, Skateboards, & Other Coasting Devices**

The responsible use of alternative transportation methods including skateboards, roller skates, rollerblades, scooters, and other coasting devices (hereafter referred to collectively as “coasting devices”) are allowed on the campus of New Mexico Junior College as a way of reducing reliance on motorized transportation and promoting healthy exercise. Persons may coast or ride upon any sidewalk or improved surface used for pedestrian purposes, subject to the following restrictions:

- No lithium-ion-powered, self-balancing scooters or hoverboards may be stored in any College facilities at any time, as these pose a serious fire hazard (<https://www.cpsc.gov/Safety-Education/Safety-Education-Centers/hoverboards>).
- Users must yield the right-of-way to pedestrians on foot at all times in addition to golf carts that might be used by employees while working on the interior of the campus.
- Coasting devices may not be used in any manner that places pedestrians at risk.
- The speed of the device must not exceed 5 miles per hour and the user must remain in control of their coasting device at all times. Riding coasting devices down hills, including the incline at the Western Heritage Museum, is prohibited.
- Coasting devices are not vehicles, and their use is prohibited on roadways and in all parking lots on the campus.
- The use of the devices for acrobatics, racing or other stunts is strictly prohibited. Riding on any architectural or landscape features other than on a sidewalk is prohibited. All wheels of the device must be in contact with the ground when the operator is using the device.
- The use of coasting devices is prohibited within any building, any covered area and on any artificial turf on the campus.
- Persons using roller skates or rollerblades must remove them before entering all college buildings.

These regulations are effective immediately and will be enforced by the NMJC Campus Security and Safety Department. The failure to abide by the regulations can lead to the operator being removed from the campus and prohibited from coming back on the campus per the discretion of the Vice President for Student Services or designee.

### **Bicycle Use**

Bicycle riders on public roads have the same rights and responsibilities as motorists, and are subject to the same rules and regulations. While on the NMJC campus, bicycle use is also allowed on sidewalks and pathways. Bicycles must always yield to pedestrians and are prohibited inside any building or structure.

### **Cautionary Note**

The use of bicycles and coasting devices on the NMJC campus carries with its responsibility and potential liability. Please ride carefully and with all due consideration for the rights of others. Accidental collisions may seriously injure pedestrians, bicyclists, or other skaters. A person riding a coasting device who

strikes anyone could be deemed liable for all medical expenses of that victim and any damage done to the victim's or college property.

## **Section III**

### **Rights, Privileges, and Responsibilities of Students**

#### **Rights and Responsibilities of Students**

The College's primary function is to provide education for those persons who enroll within the system. The goal of the College is to provide an educational environment that will include the opportunity for academic, social, and personal growth. Enrollment in a state-supported educational institution of higher learning is not compulsory. As such, the student assumes obligations of performance and behavior reasonably imposed by the institution of choice relevant to its lawful missions, processes, and functions.

Freedom of discussion, inquiry, and expression is protected and nurtured in the classroom as the safeguard of the freedom to learn. Students are expected to exercise their freedom to learn in a manner consistent with the maintenance of civil discourse and orderly conduct. Responsibility for civil discourse and orderly conduct in the classroom is vested in the instructor, and responsibility for maintaining order elsewhere is set forth in the "Student Code of Conduct" and is vested in the Dean of Students.

The College assumes that the student has earnest educational purpose and maturity of reasonable behavior. This assumption continues until the student demonstrates otherwise. Every student is subject to federal, state, and local laws and is expected to be familiar with the requirements of such laws. Any student who violates any provision of those laws is subject to disciplinary action, including expulsion, despite any action taken by civil authorities on account of the violation whether the crime happened on or off campus. The College strives to assure due process and to outline specific ways of appeal in case of disagreement with administered sanctions.

#### **A. Student Rights**

Article I – A student shall have the right to participate in a free exchange of ideas, and there shall be no college rule or administrative rule that in any way abridges the rights of freedom of speech, expression, petition, and peaceful assembly as set forth by law.

Article II – Each student shall have the right to participate in all areas and activities of the College, free from any harassment and any form of illegal discrimination and without regard to any subgroup classification or stereotype.

Article III – A student has the right to personal privacy except as otherwise provided by law. This will be observed by students and College authorities alike.

1. Article IV – Each student subject to disciplinary action arising from violations of the Student Code of Conduct shall be assured procedural due process. At all Disciplinary Conferences and Reviews, an accused student shall be assumed innocent until there is a preponderance of evidence (the majority of the evidence would cause a reasonable person to support a conclusion). In all proceedings, the student shall be guaranteed substantive and procedural due process.



## B. Student Responsibilities

Article I – A student has the responsibility to respect the rights and property of others, including other students, staff, faculty, and administration.

Article II – A student has the responsibility to be fully acquainted with the published College Student Handbook and to comply with it and with the laws of the land.

Article III – A student has the responsibility to recognize that student actions reflect upon the individuals involved and upon the entire College community.

Article IV – A student has the responsibility to recognize the College’s obligation to provide an environment for learning.

## Core Values and Behavioral Expectations

NMJC is a tax supported educational institution whose mission is to provide an educational opportunity to all who enroll. The enrollment of a student at NMJC is a voluntary entrance into the academic community. By such entrance, the student voluntarily assumes the obligations of performance and behavior which are imposed by the College relevant to its lawful missions, processes, and functions. These obligations may be much higher than those imposed on all citizens by civil and criminal law.

NMJC is a learning community consisting of students, faculty, and staff. Just as any community has a culture, along with written and unwritten “expectations” for conduct, we too have a culture with associated expectations for behavior. The community’s expectation is that conduct is marked by integrity. Any student who chooses to enroll at NMJC also chooses to become part of this community and make constructive contributions to its culture. This choice is attended by an obligation to conduct oneself in such a way as to facilitate the mission of the community which is to “...pursue and share knowledge...” The following principles are part of the collective expectation of the members of this community relative to personal conduct. We hope they serve to explain and illustrate our position.

- **Civility-** Members of a learning community interact with others in a courteous and polite manner. Members of the community have a responsibility to respect values, opinions, or feelings of others.
- **Ethical Behavior-** The pursuit of a higher education is a privilege. Associated with that privilege is an obligation to aspire to a set of principles and values that demonstrate a commitment to fairness, honesty, empathy, and achievement.
- **Morality-** Members of a learning community commit to ideals of decent human conduct. This is a lifestyle that seeks to harm no one and attempts to be a positive contributor in every interaction.
- **Respect-** Every member of this community should seek to both gain and demonstrate respect. Members should hold one another in high regard. Each individual should conduct himself/herself in a manner worthy of that regard. That regard is gained by decent and correct behavior.

The learning community at NMJC does not intend to be prescriptive regarding the personal beliefs and value systems of its members. However, this community does believe that it has a right to expect its members to demonstrate personal responsibility and integrity in word and deed. When the conduct of any member falls outside the bounds of civil, moral, and ethical behavior, that member can expect the community of NMJC to call such conduct into question. The College reserves the right to discipline students or student organizations for inappropriate actions that occur on or off campus which have a direct detrimental impact on the institution's educational functions. Students failing to maintain these higher obligations may be asked to leave the academic community. Students are expected to comply with all NMJC policies and procedures, including the Student Code of Conduct.

## Student Code of Conduct

### Introduction and Overview

The NMJC Student Code of Conduct (Code) is adopted by the authority outlined in New Mexico Junior College Board Policy Number 704. The Code sets forth the rights and responsibilities of NMJC students; outlines the standards for conduct; provides the types of interim measure and sanctions which may be imposed for violation of the code; provides a prompt and fair fact-finding student conference, as well as an objective review process if students elect a formal review by the Student Disciplinary Committee.

The Code shall provide an educational and non-adversarial process designed to resolve matters concerning student conduct. It is not designed to be a legal or judicial process.

### Application

1. The Code shall provide an educational and non-adversarial process designed to resolve matters concerning student conduct. It is not designed to be a legal or judicial process.
2. The Code is designed to be reliable, fair, and effective.
3. Individuals who have established a student relationship with the College are subject to the Code.
4. The Code shall operate by preponderance of evidence. (The majority of the evidence would cause a reasonable person to support a conclusion.)
5. Disciplinary records shall be maintained by the Dean of Students or designee in accordance with the College's records and retention policy.
6. The College's disciplinary process shall proceed during the pendency of any related criminal or civil proceedings and shall not be subject to reconsideration even if related charges are dismissed or otherwise resolved.
7. Student clubs/organizations/athletics shall be expected to conduct themselves in a manner consistent with the College's function as an educational institution. Student clubs/organizations/athletics must observe all international, federal, state, or local laws, as well as the College's policies, including the Code, both on-campus and off-campus.

## **Jurisdiction**

1. On-campus: The code applies to conduct which takes place on college premises.
2. Off-Campus: The code generally is not applied to conduct which occurs off campus, but the College retains the right to act in cases where there is a sufficient connection between the off-campus conduct and the College. Disciplinary action imposed by NMJC may proceed, and be in addition to, any penalty that might be imposed by an off-campus authority. Examples of when off-campus conduct will result in action under the Code include but are not limited to the following:
  - a. Conduct at college sponsored events.
  - b. Conduct on college sponsored trips.
  - c. Conduct at locations at which the College has a student use agreement (such as the CORE).
  - d. Conduct which reasonably may present a significant risk of harm to the campus community (health, welfare, and/or safety of the student or others).
  - e. Conduct which significantly impinges upon the rights, property or achievements of self or others or significantly breaches the peace or causes social disorder.
  - f. Conduct involving alcohol or drugs.
  - g. Conduct detrimental to the educational mission or interests of the College.

## **Interim Suspension**

An interim suspension is a temporary removal of the student by a Vice President or designee based upon the facts which show the student constitutes a danger to property, to self, or to others. The student will immediately be given notice of reason(s) for the interim suspension. Such notice shall be given in writing and hand delivered whenever possible. An interim suspension is not based upon the presumption of the student's guilt. It is a measure to provide safety to all parties involved. The student has two (2) working days to appeal in writing to the Vice President of Student Services, who will review the request and render a written decision within two (2) working days of the request for an appeal.

## **Removal from Campus**

At the request of an authorized NMJC official, an individual(s) will be removed from campus by appropriate law enforcement personnel or NMJC Public Safety/Security Personnel, if they present a danger to themselves or others on the campus. At this time, the individual(s) will be notified that further attempts to come onto campus will result in a criminal trespass violation. The student has two (2) working days to appeal in writing to the Vice President of Student Services, who will review the request and render a written decision within two (2) working days of the request for an appeal.

## **Prohibited Conduct**

It is understood that every possible act of misconduct cannot be specifically stated. The following areas of misconduct are a representative list and apply whether they are performed singly, within a group, or as a function of an NMJC organization or team.

Some acts of misconduct may result in arrests and charges being filed under local, state, or federal laws. The College reserves the right to discipline students for acts of misconduct which have a direct detrimental impact on the institution's educational functions, wherever they occur.

The Dean of Students or designee may initiate disciplinary proceedings against a student for violations of the Code. Specific examples of prohibited conduct subject to disciplinary action include, but are not limited to, the following:

1. Abuse of Conduct Process - Abuse or interference with, or failure to comply in, college processes such as conduct and academic integrity hearings:
  - a. Falsification, distortion, or misrepresentation of information.
  - b. Giving false testimony or fraudulent evidence in college disciplinary proceedings.
  - c. Failure to provide, or destroying or concealing, information during an investigation of an alleged policy violation.
  - d. Attempting to discourage an individual's proper participation in, or use of, the campus conduct system.
  - e. Harassment (verbal or physical) or intimidation of a member of a campus conduct body prior to, during, or following a campus conduct proceeding.
  - f. Failure to comply with the sanction(s) imposed by the campus conduct system.
  - g. Influencing, or attempting to influence, another person to commit an abuse of the campus conduct system.
  - h. Action or inaction with another or others to violate the code.
  - i. Retaliation of any kind to the complainant, witnesses, administrators, faculty, staff, or student.
  
2. Alcohol and Drugs
  - a. Alcohol: Possession, use, manufacture, distribution and/or being under the influence of alcoholic beverages, in any form, in or about college grounds, instructional buildings, residence halls, or at any college approved activity, on or off campus.
  - b. Drugs: Use, manufacture, distribution or possession of marijuana, illicit drugs, narcotics, synthetic cannabis, and/or chemicals. Possession of illegal drugs is prohibited at NMJC and may result in immediate expulsion from the College and/or loss of scholarships or other financial aid. This prohibition applies regardless of whether the resident complies with state recreational use laws.
  - c. Prescription Medications: Abuse, misuse, sale, or distribution of prescription or over-the-counter medication or the use of prescription drugs other than by the person to whom the drug is prescribed.
  - d. Possession of a Medical Marijuana Registry identification card, regardless of state issued, does not authorize a student to possess, use or distribute marijuana.
  - e. Misuse of Legal Substances: Inhaling or ingesting a substance (including but not limited to nitrous oxide, glue, paint, gasoline, solvent, etc.) or using the substance other than for its intended purpose.

3. Assault
  - a. Aggravated Assault: An attack by one person upon another, in which the offender uses or displays a weapon in a threatening manner or the victim suffers injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration, or loss of consciousness.
  - b. Simple Assault: An unlawful physical attack by one person upon another where neither the offender displays a weapon, nor the victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration, or loss of consciousness.
  - c. Sexual Assault: any physical act that is sexual in nature and which is committed under pressure of force, threat, or coercion, or without the full and informed consent of all persons involved. This includes rape, fondling, incest, and statutory rape.
4. Bystander Behavior
  - a. Complicity with or failure of any student to appropriately address known or obvious violations of the code.
  - b. Complicity with or failure of any organized group to appropriately address known or obvious violations of the code or law by its members.
5. Damage or Destruction - Intentional, reckless or unauthorized damage, or destruction of, college property or the personal property of another.
6. Discrimination or Harassment
  - a. Discrimination: Any act or failure to act that is based upon an individual or group's actual or perceived status related to age, ancestry, color, disability, gender identity, genetic information, national origin, race, religion, serious medical condition, sex, sexual orientation, spousal affiliation, or protected veteran status that is sufficiently severe that it limits or denies the ability to participate in or benefit from the college's educational program or activities.
  - b. Harassment: Any unwelcome conduct based on actual or perceived status including: age, ancestry, color, disability, gender identity, genetic information, national origin, race, religion, serious medical condition, sex, sexual orientation, spousal affiliation, or protected veteran status. Any unwelcome conduct should be reported to campus officials, who will act to remedy and resolve reported incidents on behalf of the victim/complainant and community.
  - c. Hostile Environment: When harassment is sufficiently severe, pervasive or persistent and objectively offensive that it unreasonably interferes with, limits, or denies the ability to participate in or benefit from NMJC's educational or employment program or activities.
  - d. Bullying: When harassment is sufficiently severe, pervasive or persistent and objectively abusive that it unreasonably interferes with, limits, or denies the ability to participate in or benefit from NMJC's educational or employment program or activities.
  - e. Retaliatory Discrimination or Harassment: Any intentional, adverse action taken by any responding individual or allied third party, absent legitimate nondiscriminatory

purposes, against a participant (or supporter of a participant) in a civil rights grievance proceeding or other protected activity.

7. Dishonesty
  - a. Academic cheating or plagiarism (Section IV, Academic Policy)
  - b. Falsification - Knowingly furnishing or possessing false, falsified or forged materials, documents, accounts, records, identification, or financial instruments.
  - c. Misuse of college documents or identification.
  - d. Election Tampering - Tampering with the election of any college recognized student organization.
8. Disruptive or Disorderly Behavior
  - a. Disorderly Conduct - Conduct, such as but not limited to, acts that interfere with public peace, order, or safety.
  - b. Disruptive Behavior - Substantial disruption of college operations including obstruction of teaching, administration, or other college or authorized non-college activities which occur on campus.
  - c. Rioting - Causing, inciting, or participating in any disturbance that presents a clear and present danger to self or others, causes physical harm to others, or causes damage or destruction of property.
9. Failure to Comply
  - a. Failure to comply with directions, written or verbal, of college officials, law enforcement agents, or residence hall staff acting in the performance of their duties.
  - b. Refusing to respond to an official request related to alleged violation of college policy or regulation.
  - c. Failure to properly identify oneself to those persons when requested to do so.
10. Financial Responsibilities - Failure to promptly meet financial responsibilities to the institution, including, but not limited to knowingly passing a worthless check or money order in payment to the institution or to an official of the institution acting in an official capacity.
11. Fire Safety - Violation of local, state, federal or campus fire policies including, but not limited to:
  - a. Intentionally or recklessly causing a fire which damages college or personal property or which causes injury.
  - b. Failure to evacuate a college-controlled building during a fire alarm.
  - c. Improper use of college fire safety equipment.
  - d. Tampering with or improperly engaging a fire alarm or fire detection/control equipment while on college property.
  - e. The reporting of false fires, bomb threats, or other false emergency alarms.
12. Gambling – Gambling is not permitted as prohibited by the laws of the State of New Mexico.
13. Harm to Persons - Intentionally or recklessly causing physical harm or endangering the health, welfare, or safety of any member of the campus community including self is prohibited.

14. Hazing - An act that endangers the mental or physical health or safety of a student, or that destroys or removes public or private property, for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in a group or organization. Participation or cooperation by the person(s) being hazed does not excuse the violation. Failing to intervene may also violate this policy.
15. Health and Safety - Creation of health or safety hazards including, but not limited to:
  - a. Hanging out of or climbing from/on/in windows, balconies, stairwells, roofs, or moving vehicles.
  - b. Unsafe operation of motor vehicles.
  - c. Ingestion of dangerous substances.
16. Interference - Engaging in overt physical acts which interfere with the normal or sponsored activities of the college on or off the campus, including, but not limited to:
  - a. The blocking of ingress or egress to the College's facilities.
  - b. Tampering with public utilities.
  - c. Prevention of freedom of movement or expression by other students, college officials, law enforcement agents, faculty members, employees and invited guests.
17. Intimate Partner/Relationship Violence (This will follow Section VI, Title IX policy.)
  - a. Dating Violence - Violence or abuse committed by a person who is or has been in a social relationship of a romantic/intimate nature with the victim. The existence of such a relationship is based on the reporting party's statement with consideration of the length and the type of relationship, and the frequency of interaction between the persons involved in the relationship.
  - b. Domestic Violence – Domestic violence includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of New Mexico, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state of New Mexico.
18. Other Policies - Violation of NMJC policies or rules including but not limited to:
  - a. Residence Hall rules and regulations.
  - b. Information Technology (IT) Acceptable Use
  - c. Trademark - Unauthorized use or misuse of college or organizational names and images.
  - d. Academic Policies
  - e. Copyright Policy
19. Personal Transportation Devices (Section II, Campus Safety, Transportation, Traffic, and Parking)

- a. Skateboards, scooters, hover boards, roller blades, roller skates, bicycles, and similar wheeled devices are not permitted to be ridden inside college buildings, residence halls or on athletic fields or courts.
  - b. Wheeled items may not be ridden on rails, curbs, benches, or any such fixtures that may be damaged by these activities (individuals may be liable for damage to college property caused by these activities).
- 20. Public Exposure - Includes deliberately and publicly exposing one's intimate body parts, public urination, defecation, and public sex acts.
- 21. Sexual Misconduct - Includes, but is not limited to, sexual harassment, non-consensual sexual conduct, sexual assault, sexual abuse, solicitation, or sexual exploitation. (See Section VI, Title IX for the specific violations that will be handled through that process.)
- 22. Smoking and Tobacco
  - a. Smoking - Smoking (including e-cigarettes and vapor pens) is prohibited in all college buildings, classrooms, residence halls and college vehicles.
  - b. Tobacco Products - The use of all tobacco products, including but not limited to cigar, cigarette, pipe, snuff and chewing tobacco, is prohibited in all college buildings, classrooms, residence halls, and college vehicles.
- 23. Theft
  - a. Theft or attempted theft of college property or personal property of another, including goods, services, and other valuables.
  - b. Possession, sale, or barter of stolen items.
- 24. Threatening Behavior
  - a. Threat: Written or verbal conduct that causes a reasonable expectation of injury to the health, welfare, or safety of any person or damage to any property.
  - b. Intimidation: Intimidation defined as implied threats or acts that cause a reasonable fear of harm in another.
  - c. Bullying or Cyberbullying: Repeated or severe aggressive behaviors that intimidate or intentionally harm or control another person physically or emotionally, and are not protected by freedom of expression.
  - d. Stalking - Engaging in a course of conduct directed at a specific person that would cause a reasonable person to (1) fear for the person's safety or the safety of others (2) or suffer substantial emotional distress.
- 25. Unauthorized Access or Use
  - a. Unauthorized access - Unauthorized access to a building, room, classroom, office, athletic facility, vehicle, or residence hall.
  - b. Misuse of access privileges - This includes propping doors or gates, or unauthorized use of alarmed doors for entry into or exit from college buildings.
  - c. Unauthorized Use - Unauthorized use or possession of college property.



27. Violation of Law - Violation of local, state, or federal law, when substantiated through the college's conduct process.
28. Weapons and Other Explosive Materials/Devices - Possession, use, or distribution of:
  - a. Explosives (including fireworks and ammunition).
  - b. Firearms loaded or unloaded (including air, BB, paintball, facsimile weapons, and pellet guns).
  - c. Other weapons or dangerous items such as any types of arrows, machetes, nun chucks, throwing stars, daggers, brass knuckles, switchblade knives, bowie knives, poniards, swords, butcher knives, dirk knives and all such weapons with which dangerous cuts can be given, or with which dangerous thrusts can be inflicted, including sword canes, and any kind of sharp pointed canes, also slingshots, slung shots, bludgeons; or any other weapons with which dangerous wounds can be inflicted.
29. Engaging in, or use of obscene, lewd, or vulgar language, behavior and display regardless of the medium.
30. Animals on Campus (Section VIII, Service and Assistance Animals on Campus)  
With the exception of service and emotional support animals, animals are not allowed on NMJC property, except as permitted by NMJC policy and/or related to official NMJC programs, curriculum, and activities.
  - a. Violating applicable local laws relating to the control, care, and owner's handling of animals.
  - b. Violating the NMJC Pet Policy.

### **Disciplinary Procedures**

The Vice President for Student Services (VPSS) or designee is ultimately charged with the administration of the discipline system at the College. The Vice President for Instruction (VPI) or his/her designee is charged with the administration of discipline in all academic matters. Faculty may impose penalties for acts of cheating and plagiarism by students on any graded work or exam. Department heads, in coordination with program sponsors/coaches may impose penalties for violations in cooperation with the VPSS.

The Dean of Students or designee shall assess all suspected and reported violations of the Code. Complaints regarding alleged misconduct must be submitted to the Dean of Students as soon as possible after the alleged violation.

After completing an initial inquiry, the Dean of Students or designee may:

1. Dismiss the allegations as unfounded.
2. Summon the student for a conference.
3. Dismiss, upon completion of the conference, the allegations or impose disciplinary sanctions.

4. Impose immediate interim action if the continued presence of the student poses a danger or perceived risk to harm person(s) or property or a disruption of the academic process of the College.

#### **Notice of Complaint**

1. The Dean of Students or designee shall deliver a notice summarizing the alleged misconduct either by mail, hand delivery, or electronic means. All students are responsible for maintaining a current physical mailing address with the College. The College uses Maxient software and all communication will first be sent electronically to the student's official NMJC email address.
2. The Dean of Students or designee shall give notification of a date to meet him/her for a disciplinary conference. If the date and time for the conference is not satisfactory for the student, then it is the responsibility of the student to reschedule. The student automatically waives his/her right to a conference if the Dean of Students is not contacted, a conference is not rescheduled, and the conference is not kept by the student. A decision may be made by the Dean of Students or designee solely on the information at hand.
3. In cases where there is a concern for the health, safety, and health of any individual(s) of the campus community, then a Notice of Complaint does not have to be sent because of the urgency of the matter.
4. If the student shows up prior to the Notice of Complaint letter being sent to the student, then there is also no need to send the Notice of Complaint out to the student.

#### **Notice of Disciplinary Findings**

1. If it is determined that the greater weight of evidence or preponderance of evidence indicates that a student engaged in a violation of the Code, then the Dean of Students or designee shall deliver a Notice of Disciplinary Findings.
2. The Notice of Disciplinary Findings shall include information regarding the Review process.
3. This notice shall inform the student of the findings, a rationale for the decision, any imposed sanctions or restrictions, and the student's right to request a review by the Student Disciplinary Committee, if applicable.

#### **Possible Sanctions**

1. Admonition – Oral or written reprimand.
2. Discretionary sanctions – These include work assignments, service to the College, etc.
3. Disciplinary probation – Probation indicates that the student has engaged in unacceptable behavior and that a period of observation is needed to substantiate that behavior has improved. Additional conditions may be imposed during the probationary period, such as counseling, educational seminars/courses, etc. An additional violation may result in more severe action.
4. Withholding of grades, official transcript, certificate of completion, or degree.

5. Suspension of rights and privileges – This type of suspension includes, but is not limited to, participation in intramurals/recreation center, participation in extracurricular activities, election to office, restrictive building or area access, revocation of housing or visitation privileges, etc.
6. Administrative withdrawal from course(s).
7. Bar against readmission – This action is for a specific period of time and/or may involve the student's drop from current enrollment entirely or from enrollment in one or more courses.
8. Restitution – This action requires reimbursement for damages to property or for misappropriation of property. Restitution may be achieved either monetarily or by specific duties.
9. Failing grade or other academic penalty.
10. Denial of degree – A denial shall become part of the student's permanent record.
11. Revocation of a degree, grade, or certification – A revocation shall become part of the student's permanent record.
12. Probated Housing Suspension – Any other violation of College policy may result in removal from on-campus housing privileges.
13. Suspension – A suspension shall result in the student's removal from the College for a specified period of time. A suspended student shall be administratively withdrawn from NMJC, prohibited from entering the College's premises, and blocked from future registration until approval is granted by the Conduct Officer or his/her designee. Suspension shall become a part of the student's permanent record and may be removed at the completion of the sanction, at the student's request.
14. Expulsion – This action results in permanent removal from the College. An expelled student shall be administratively withdrawn from NMJC and prohibited from entering the College's premises. Expulsion shall become part of the student's permanent record.
15. Other penalties as seen fit by the appropriate administrator at the College.

### **Review Process**

1. Only sanctions that include restrictions, loss of privileges, withholding/revocation of grades or degrees, suspension, or expulsion shall be reviewed by the Student Disciplinary Committee. All Title IX (Section VI, Title IX) and Academic Dishonesty (Section IV, Academic Policies) cases will follow the proper policies and procedures pertaining to the review.
2. A student shall have five (5) working days to request a review from the date of the Notice of Disciplinary Findings letter to request a review to the Dean of Students. The request must be made in legible writing and contain the reason for the request and possible alternative sanctions or resolutions.
3. The student shall be notified within five (5) working days of the time, date, and location of the review by the Dean of Students or designee if the request was made within the timeframe. Any

delays due to extenuating circumstances shall be documented and all parties shall be notified accordingly.

4. At least two (2) working days prior to the review, a list of witnesses and documentation must be provided to the Chair of the Student Disciplinary Committee.
5. The Dean of Students or designee shall present the College's case followed by the student's presentation. Each Party shall have the opportunity to present testimony and evidence in support of their position. There is no cross examination between the student or the College. The Student Disciplinary Committee shall be allowed to question both parties, witnesses, and request additional information or clarification.
6. Review procedures shall be confidential and closed to the public.

### **Student Disciplinary Committee**

1. The Student Disciplinary Committee consists of three (3) members of the campus community including a Chairperson, a faculty member and a staff member. All members shall be approved by the President.
2. The Chairperson shall direct proceedings of the review and participate fully in all reviews to include voting.
3. The objective of the Student Disciplinary Committee is to review the findings and sanctions originally imposed by the Dean of Students or designee. The Committee may not impose more severe penalties.
4. At the conclusion of the presentation of information, the Student Disciplinary Committee will render a decision on the matter. The decision shall be made by majority vote. The decision will consist of one of the following:
  - a. Uphold disciplinary decision in its entirety.
  - b. Reverse disciplinary decision.
  - c. Modify disciplinary decision in part or in its entirety.
5. The findings and conclusions of the Student Disciplinary Committee shall be final.
6. The Chairperson will have three (3) working days to provide written results of the review to both parties. The letter shall include a rationale for their decision when the decision of the Dean of Student's is not upheld.

### **General Rules for Reviews**

1. Reviews are informal proceedings, and traditional rules of the courtroom evidence shall not apply. However, the Dean of Students or his/her designee must show preponderance of evidence and that the sanction imposed was reasonable based upon the circumstances.
2. An advisor, attorney, or support person for the student may be present for the review; however, the advisor, attorney, or support person may not make statements, represent the accused, or question witnesses.

3. If an attorney accompanies a student for the review, the attorney shall not be permitted to present evidence before the Student Disciplinary Committee. The College reserves the right to counsel in the event it is deemed necessary. The time frame for scheduling a review may be extended if the College elects to retain counsel.

## **Section IV**

### **Academic Policy**

#### **Academic Integrity**

As a college of higher learning, NMJC is concerned that all participants in the learning environment conduct themselves with a high level of academic honesty and integrity. As much as it is the students' responsibility to conduct themselves according to accepted values of honesty and integrity, so too is it the institution's responsibility to provide a fair and equitable process for addressing behavior that falls outside of what has been deemed as acceptable.

The course syllabus is an agreement between the professor and the student. Students should read the course syllabus carefully. The Vice President for Instruction (VPI) is the final authority for academic policy and discipline in the academic arena.

#### **Academic Dishonesty**

Academic dishonesty (commonly known as cheating) is any behavior on the part of a student that results in that student or any other students giving or receiving unauthorized assistance in an academic exercise or receiving credit for work which is not their own. Such acts include, but are not limited to:

1. Unauthorized aids – Use of material, information, or study aids not permitted by the professor during tests, quizzes, or other graded class activities. This also includes intentional sharing of information or working together on a graded academic exercise when such collaboration is not approved by the professor. The cheating might be premeditated as in the case of preparing “cheat sheets” or securing a copy of the test beforehand or opportunistic as in the case of looking at another student's test.
2. Plagiarism – Use of another person or group's words or ideas without clearly acknowledging the source of that information, resulting in the false representation as one's individual work. To avoid plagiarism, a student must give credit when he/she uses:
  - Quotations of another person's spoken or written words.
  - Paraphrases of another person's spoken or written words.
  - Another person's data, solutions, or calculations without permission of the source, including an individual's computerized files.

***\*Students must educate themselves about plagiarism. Ignorance is not a legitimate defense against a charge of plagiarism.***

3. Falsification/Fabrication – Intentional and unacknowledged invention or alteration of any data, incident, quotations, or citations in an academic exercise.
4. Facilitating Academic Dishonesty – Intentionally or knowingly helping or attempting to help another student to violate any aspect of academic dishonesty.

### **Academic Sanctions**

In all cases of academic dishonesty, the professor should document the suspected event, meet with the student(s) in question and impose an academic sanction at the professor's discretion. The Vice President for Instruction (VPI) will maintain a centralized report of all cases of academic dishonesty.

### **Appeal Process**

The student may appeal any academic dishonesty determination or sanction by submitting a written request within one week of receipt of the notification of sanction. The three-stage appeal consists of professor, dean, and Vice President for Instruction and the written appeal must include the following:

1. The name of the professor who imposed the academic sanction.
2. The name of the student requesting the appeal.
3. The course number, course name, and section.
4. A description of the imposed sanction.
5. The grounds for the appeal.

After reviewing the appeal, the professor, dean, and Vice President for Instruction will take one of the following actions:

1. Deny the appeal request.
2. Grant the appeal request and refer the matter back to the professor to amend the original decision and sanction.

The student submitting the appeal is notified in writing of the decision by the professor, dean, and Vice President for Instruction regarding the outcome of each stage of the appeal.

In cases of repeat offenders or students on probationary status, the student will be summoned to the office of the VPI for a disciplinary hearing and a determination will be made if additional sanctions, including an, "F" in the course or removal from the course of instruction is warranted. The student, professor, and dean are notified of any further academic sanctions rendered by the VPI.

## Grade Appeals

If a student has reason to believe that a final grade he / she has received is incorrect, the student must first contact the professor and informally attempt to resolve the issue before beginning a formal, written grade appeal. If no satisfactory resolution is reached, the student may then proceed with the formal, written, grade appeal process, as noted below.

A formal, written grade appeal must be started no later than the last day of classes of the first long (regular) semester which follows receipt of the disputed grade. For example, to appeal a grade received for a class completed during the fall semester, the student has until the last day of the following spring semester to begin the written appeal.

The only grounds for a student to appeal a final, semester grade are:

1. The grade is allegedly based on an error in calculation.
2. The grade allegedly did not follow the grading criteria as stated in the course syllabus.

It shall be the responsibility of the student to prove that the grade is incorrect or unjustified. Students may not appeal disagreements based on teaching methodologies, attendance policies, or grade weighting methods. During the term of the course it is the student's responsibility to communicate any concerns he/she may have about the course or grade to the Professor.

An appeal will not be heard at any level unless the proper appeal steps have been followed.

Academic Dishonesty issues go through the Academic Dishonesty process, not through the Grade Appeal Process.

### Process for a formal, written Grade Appeal

#### I. Written Appeal to Professor

- The student is to obtain the Formal Grade Appeal Form from the Academic Division in which the course was offered.
- The student is to contact the Professor and provide the Formal Grade Appeal Form with the top section already completed by the student. This is to allow written documentation of reasons for the appeal. This contact with the Professor may be by any method including person-to-person, letter or e-mail. If the Professor is not available, the student should submit the Formal Grade Appeal Form to the Dean who supervises the Professor. (This information may be obtained from the Registrar's Office or the Vice President for Instruction's Office.)
- The Professor will complete his/her part of the Form within 10 business days (Monday – Friday) following receipt of the form from the student. If the Professor agrees with the student request for grade change, within 5 business days of that decision, a Grade Change Form will be initiated by the Professor and submitted to the Registrar. If the Professor does not agree with the student, the grade remains unchanged.
- The student may either accept the Professor's decision or advance the appeal to the appropriate Academic Dean no later than 20 business days following receipt of the Professor's decision.

## **II. Written Appeal to the Academic Dean**

- The student makes a formal, written appeal to the Academic Dean by submitting a copy of the Grade Appeal Form as completed at the previous level, to the appropriate Dean.
- The Dean will complete his / her part of the Form within 10 business days of receiving the formal, written request for appeal from the student.
- If the Academic Dean agrees with the student request for a grade change, within 5 business days of that decision, the Dean will have a Grade Change Form initiated. If the Dean does not agree with the student, the grade remains unchanged.
- The Student may either accept the Dean's decision or advance the appeal to the Vice President for Instruction no later than 20 business days following receipt of the Dean's decision.

## **III. Written Appeal to the Vice President for Instruction**

- The student requests a formal, written appeal to the Vice President for Instruction by submitting a copy of the Form, as completed at the previous levels, to the Vice President for Instruction.
- The Vice President will complete his / her review of the grade appeal request within 10 business days of receiving the formal, written request for appeal from the student.
- If the Vice President agrees with the student request for a grade change, within 5 business days of that decision, the Vice President for Instruction will have a Grade Change Form initiated. If the Vice President does not agree with the student, the grade remains unchanged.
- The decision of the Vice President for Instruction is final. No further appeals of this grade may take place.

## **Section V Alcohol and Drug Policy**

### **Drug Free Schools and Communities Act**

Information regarding the use/abuse of drugs and alcohol by employees and students is provided pursuant to public law 101-226, The Drug Free Schools and Communities Act Amendments of 1989.

NMJC students and their health and welfare are of serious concern. NMJC recognizes that the use of illicit drugs and/or the abuse of alcohol is a persistent health problem of major proportion affecting our society physically, mentally, and socially. Illicit drug use and/or alcohol abuse can adversely affect an individual's personal life, safety, health, and mental or physical performance.

It is the intent of NMJC to provide students with pertinent information related to illicit drug use and/or alcohol abuse in an effort to prevent such abuse.

As a recipient of federal funds, the College is obligated to inform all students that the possession, use or distribution of illicit drugs and alcohol on its property or as part of any of its activities is prohibited, and is a violation of policy. Students who violate the policy will be subject to appropriate disciplinary action. It is also a federal requirement and a College policy that, as a condition of employment, any student worker will notify his or her immediate supervisor within five (5) days of conviction of a criminal drug



offense occurring in the workplace. NMJC is committed to promoting and maintaining a work and academic environment that is free from illegal alcohol and drug use and abuse, in accordance with all federal, state, and local laws.

### **NMJC Alcohol and Drug Policy**

Students, employees and visitors are prohibited from possessing, consuming, manufacturing, dispensing, or being under the influence of alcohol/illegal drugs / synthetic cannabis/spice or engaging in improper self-medication while on College property or conducting College business. Any member of the College community who violates this policy is subject to both prosecution and punishment under federal, state, and local laws and to disciplinary proceedings by the College.

This alcohol/drug policy is not designed to punish people for seeking rehabilitation. All information about those individuals who voluntarily avail themselves of drug or alcohol counseling or rehabilitation services will remain confidential. Seeking counseling or rehabilitation will not be used as a basis of disciplinary action or be used against an individual in any way.

College employees and students who violate the alcohol/drug policy may be informed about and referred to services to assist them in determining whether they are abusing drugs and alcohol or are chemically dependent. If a problem is found to exist, the individual may be referred to resources to assist him / her in overcoming the drug or alcohol abuse pattern.

The College will review its Alcohol and Drug Abuse Prevention Program every 2 years to determine its effectiveness and implement changes to the program as needed, and to ensure that the disciplinary sanctions applied by the College are consistently enforced.

### **Alcohol and Drug Use**

Drug and alcohol use, misuse, and abuse are complex behaviors with many outcomes at both the cultural and the individual levels. Awareness of the dangerous effects of drug/alcohol use is imperative for an individual's well-being or survival. Negative consequences of drug/alcohol may be exhibited through: physical dependence (the body's learned requirement of a drug for functioning) or psychological dependence (the experiencing of persistent craving for the drug and/or a feeling the drug/alcohol is a requirement for functioning).

Abuse of any drug/alcohol whether licit or illicit may result in marginal to marked, temporary to permanent physical and/or psychological damage, even death. Since many of the illicit drugs are manufactured and sold illegally, their content varies and may contain especially harmful ingredients or amounts. Regardless of the types of drug/alcohol utilized, a perceived need for the continued use is likely to ensue, resulting in dependence. Dependence on drugs and/or alcohol alters the user's psychological functioning. The acquisition of drugs and alcohol becomes the primary focus of the drug dependent individual and often results in reduced job performance and jeopardized family and other interpersonal relationships. Criminal behavior is frequently the means for financing a drug habit. Behavior patterns often include violence and assault as the individual becomes increasingly drug/alcohol dependent. Social and psychological alienation and medical problems increase as the abuser becomes entrapped in drug/alcohol dependence. For more information on drug/alcohol counseling and referrals, please contact the Counseling Office at your campus.

## **Student Violations**

The Dean of Students has authority to sanction as seen fit for any violation of the Student Code of Conduct involving Drugs and Alcohol. For more information on the disciplinary process, go to the Code of Student Conduct.

The Family Educational Rights and Privacy Act (FERPA), permits colleges and universities to inform the parents/guardians of students less than 21 years of age when their son/daughter has been found in violation of college alcohol and drug regulations.

Students exhibiting signs of excessive drug/alcohol consumption may be transported via Emergency Medical Services (EMS) at the student's expense for medical attention. Refusal to cooperate with EMS personnel may result in arrest in order to ensure the student's health and safety.

## **NMJC SANCTIONS**

NMJC will impose sanctions for failure to maintain standards of conduct regarding illicit drug use and/or alcohol abuse as may apply to students and/or employees consistent with local, state and federal law, up to and including expulsion from school or termination of employment and referral of violations of the standards of conduct.

### **Possible College Sanctions**

- Educational assignments
- Oral or written Reprimand
- Restrictions
- Restitution
- Disciplinary Probation
- Loss of College Housing privileges
- Suspension
- Expulsion
- Notification of Law Enforcement

### **[New Mexico Legal Sanctions for Possession/Consumption of Alcohol by a Minor](#)**

Possession/consumption of alcohol by persons not 21 years of age violates New Mexico law, and can be punishable by up to six (6) months in the county jail and a \$500 fine.

### **[New Mexico Legal Sanctions for Driving Under the Influence](#)**

Alcohol abuse is subject to penalties specified by the Liquor Control Act. A DWI (Driving While Under the Influence) conviction can result in a fine up to \$1,500 and/or imprisonment up to 364 days for a 1st offense, prosecution for vehicular homicide, and/or license revocation and vehicle impoundment.

### **[New Mexico Legal Sanctions for Controlled Substances](#)**

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

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

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

The fine for possession of LSD and amphetamines is \$1,000 and the prison sentence is up to one (1) year. Trafficking LSD and amphetamines carry a fine of \$5,000 and a prison sentence of three (3) years.

### **Federal Legal Sanctions**

Federal trafficking penalties for methamphetamine, heroin, cocaine, PCP, LSD, Fentanyl, and Fentanyl Analogue vary depending on the quantity of drugs involved and whether the offense is the first or a repeat offense. Prison sentences range from five (5) years to life. Fines for trafficking in these drugs range from \$2 million to \$8 million. Federal trafficking penalties for marijuana range from ten (10) years to life. Fines for trafficking in these drugs range from \$2 million to \$8 million.

### **Medical Marijuana**

Possession of a Medical Marijuana Registry identification card, regardless of state issued, does not authorize a student to possess, use or distribute marijuana in any on campus housing or NMJC property.

### **Health Risks Associated with Alcohol Abuse**

- Increased risk of liver cancer.
- Increased risk of cirrhosis of the liver.
- Increased risk of heart disease.
- Adverse reactions when combined with many medications, including over-the-counter drugs.
- Overdose resulting in respiratory failure.
- Impaired concentration.
- Impaired coordination.
- Risk of permanent nerve damage from long-term abuse.

### **Health Risks Associated with Marijuana Use**

- Lowered sperm counts in men.
- Decreased testosterone levels in men.
- Increased testosterone levels in women.
- Enhanced cancer risk.
- Impaired short-term memory.
- Psychological dependence.

### **Health Risks Associated with the Use of Cocaine and Crack**

- Addiction.
- Heart attack.
- Stroke.
- Respiratory failure.

- Brain seizures.
- Hepatitis or AIDS through sharing needles.
- Decreased ability to combat infections.
- Violent, erratic or paranoid behavior.
- Anxiety, depression.
- Cocaine psychosis.

#### **Health Risks Associated with the Use of Hallucinogens**

- Sleeplessness and tremors.
- Convulsions.
- Heart and lung failure.
- Depression, anxiety and paranoia.
- Violent behavior.

### **Amnesty for Alcohol and Drug Emergencies**

Alcohol poisoning and drug overdose are serious and life-threatening medical emergencies. Students may encounter this type of emergency during their time at NMJC. Sometimes students are afraid to seek emergency medical care when alcohol poisoning or drug overdose is suspected because they do not want to get themselves or others in trouble. In order to encourage students to seek emergency medical care, NMJC has instituted the Student Amnesty for Alcohol and Drug Emergencies.

Amnesty means current NMJC students can avoid formal college disciplinary action and the creation of a formal disciplinary record when they call for help for an alcohol or drug-related medical emergency.

#### **Student Amnesty for Alcohol and Drug Emergencies applies in the case of the following:**

1. Possession of alcohol or drugs by a minor (minor in possession).
2. Unauthorized possession or use of alcohol or drugs on campus.
3. Consumption of alcohol by a minor (minor in consumption).
4. Use of drugs.
5. Intoxication as the result of using alcohol (including public intoxication).

**The Dean of Students deems students appropriate for amnesty when they are referred for alcohol and drug related incidents. There are limitations to this program and inclusion is not automatic.**

#### **Procedure**

1. Call 911 when alcohol poisoning or drug overdose is present or suspected.
2. Stay with the person under the influence.
3. Cooperate with all emergency personnel.

#### **After the Incident**

1. Student(s) will be referred to the Dean of Students office and will be evaluated for amnesty.
2. Student(s) eligible for amnesty will still be required to participate in an educational component and may be referred for an individual consultation, however they will not face formal disciplinary action.

3. Student(s) who decline or fail to attend the educational component or fail to comply will become subject to formal disciplinary action.

## Consequences of Abuse Associated with the Use of Drugs and Alcohol

<b>TYPES &amp; MOST COMMON DRUGS OF ABUSE</b>	<b>GENERAL CONSEQUENCE OF ABUSE DRUGS OF ABUSE</b>
<u>STIMULANTS</u>	<p>Moderate dosages cause increased alertness, excitation, euphoria, increased pulse rate and blood pressure, insomnia, and dietary loss of appetite.</p>
Caffeine Nicotine Products	<p>Overdose can cause agitation, increase in body temperatures, hallucinations, convulsions, and possible death. Sudden withdrawal can cause apathy, long periods of sleep, irritability, depression, disorientation, hallucinations, convulsions, and possible death.</p>
Cocaine	<p>Symptoms include a false sense of well-being and energy causing the user to tend to push his/her body faster and further than it is meant to go. Users can experience a severe “crash” or physical and mental breakdown after the drugs wear off. Overdose symptoms include restlessness, tremor, muscle twitches, rapid breathing, confusion, hallucinations, panic, aggressiveness, muscle pain or weakness, and dark- colored urine. Other symptoms include nausea, vomiting, diarrhea, stomach pain, uneven heartbeats, light-headedness, fainting, seizures (convulsions), or coma. Continued use decreases natural feelings of hunger causing extreme weight loss. Negative effects can include disturbed sleep patterns, hyperactivity, delusions of power, irritability, insomnia, anxiety, and paranoia. In some cases, convulsions have led to death.</p>
Methamphetamine	<p>Symptoms include euphoria, relaxed inhibitions, increased appetite, and disoriented behavior. Marijuana impairs judgment, reduces reaction time and coordination. Overdoses can cause fatigue, paranoia, and possible psychosis. Withdrawal can cause insomnia, hyperactivity, and decreased appetite.</p>
<u>MARIJUANA</u>	<p>Moderate dosages can cause negative effects that are not noted in marijuana users such as agitation and vomiting. Use can also cause psychosis in a higher manner than with use of cannabis. Adverse health effects associated with its use include seizures, hallucinations, paranoid behavior, agitation, anxiety, nausea, vomiting, racing heartbeat and elevated blood pressure. Users can also suffer from effects of withdrawal symptoms similar to those associated with withdrawing from the use of narcotics.</p>
Hashish	
<u>SYNTHETIC CANNABIS</u>	
Spice	
Amazing J’s	
Game Over	
Herbal Incense	

DEPRESSANTS, NARCOTICS, & OPIATES

Codeine  
Heroin  
Opium  
Morphine  
Methadone

PSYCHEDELIC DRUGS

LSD (lysergic acid)  
Mescaline  
PCP (phencyclidine)

INHALENTS

Gasoline & Kerosene  
Glues & Organic Cements  
Aerosol Propellants  
Lighter Fluids  
Lacquer & Varnish  
Thinners

ALCOHOL

Beer  
Wine  
Liquor

HUMAN GROWTH HORMONE

HGH & Other Steroids

Moderate dosages cause euphoria, drowsiness, respiratory depression, constricted pupils and nausea. Overdose can cause slow and shallow breathing, clammy skin, convulsions, coma, and possible death. Sudden withdrawal results in watery eyes, runny nose, yawning, loss of appetite, irritability, tremors, panic, chills and sweating, cramps, and nausea.

NOTE: Depressants combined with alcohol can result in magnified negative effects.

Moderate dosages can result in illusions, hallucinations, and poor perception of time and distance. Overdose can result in longer, more intense "trip" episodes, psychosis and possible death.

Moderate dosages cause excitement, euphoria, giddiness, loss of inhibitions, aggressiveness, delusions, depression, drowsiness, headache, and nausea. Overdose can cause loss of memory, confusion, unsteady gait, and an erratic heartbeat and pulse are possible. Sudden withdrawal results in insomnia, decreased appetite, depression, irritability, and headache. Death can result from suffocation.

Alcohol depresses the central nervous system. Initial effect may relax and gives a mild feeling of euphoria. It also impairs judgment, while reducing reaction time and coordination. Prolonged abuse may produce brain atrophy and dysfunction. Very large quantities and/or prolonged abuse may result in death. Sudden withdrawal by an alcoholic may produce serious problems such as delirium tremors.

NOTE: Alcohol in combination with other depressants can result in magnified negative effects.

Prolonged use of HGH for achieving weight loss, increasing mass, and reversing the signs of aging, often leads to side effect that involve muscle and joint pain, abnormal bone growth, tissue edema, and altered glucose metabolism. Other side effects include Carpal tunnel syndrome, swelling in arms and legs, excess body hair, and enlargement of breast tissue in men. There is also an increased risk for diabetes, heart enlargement, liver damage, hardening of the arteries, and hypothyroidism.

**Self-Assessment:  
An Alcohol and Drug Abuse Questionnaire\***

The following list of questions is important to consider in assessing your own use of alcohol and other drugs. If you answer YES to more than three of these questions (or are concerned about someone you know), you should seek help.

- | Yes | No  |     |  |
|-----|-----|-----|--|
| ___ | ___ | 1.  | Have you ever cut classes in order to drink or use drugs or because of the after effects?  |
| ___ | ___ | 2.  | Do you drink or use drugs while studying?  |
| ___ | ___ | 3.  | Have you ever done poorly on an exam or assignment because of drinking or using drugs?   |
| ___ | ___ | 4.  | Have friends or family ever told you that you drink too much or complained about your drug use?  |
| ___ | ___ | 5.  | Have you ever lost a friend or has a relationship suffered from your drinking or drug use?   |
| ___ | ___ | 6.  | Have you ever done or said anything while drinking or using drugs that you later regretted?  |
| ___ | ___ | 7.  | Do you urge friends to drink or use drugs so that you won't stand out?   |
| ___ | ___ | 8.  | Have you begun to associate with a heavier drinking group of friends or a group that uses drugs?   |
| ___ | ___ | 9.  | Have you ever been hurt while drinking or using drugs?   |
| ___ | ___ | 10. | Have you ever awakened after drinking or using drugs and wondered what happened the night before?  |
| ___ | ___ | 11. | Do you ever feel guilty about your use of alcohol or other drugs?  |
| ___ | ___ | 12. | Do you drink or use drugs to forget your problems?   |
| ___ | ___ | 13. | Do you drink or use drugs to feel more confident?  |
| ___ | ___ | 14. | Have you ever been broke or gone into debt because you spent money on alcohol or other drugs?  |
| ___ | ___ | 15. | Have you ever destroyed or damaged property while drinking?  |
| ___ | ___ | 16. | Do you ever drive while drinking or using drugs?   |
| ___ | ___ | 17. | Have you ever been in trouble with College authorities because of alcohol /drug use or because of something you did while under the influence? |
| ___ | ___ | 18. | Do you use more than you planned?  |
| ___ | ___ | 19. | Do you ever have difficulty stopping once you've started drinking or using drugs?  |
| ___ | ___ | 20. | Do you find yourself drinking or using drugs when you first wake up?   |
| ___ | ___ | 21. | Do you drink or use drugs while alone?   |

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## **Drug and Alcohol Addiction Resources**

### **Pannell Library**

HV 5278 .M55 2005

Controlling your drinking, Miller, William R. & Munoz, Ricardo F.

HV5292 .A393 2004

Altering American consciousness: the history of alcohol and drug use in the United States, 1800-2000, Acker, Caroline Jean

HV 5825 .B87 2011

Drug Abuse: Its Natural History and Clinical Treatment, Burt, Marvin R.

HV 5825 .D7793 2008

Drugs and justice: seeking a consistent, coherent, comprehensive view, Battin, M. Pabst

HV 5825 .R484 2012

Blowing Smoke: Rethinking the War on Drugs, Reznicek, Michael J.

HV 5831 .C2 S54

Beautiful boy: a father's journey through his son's meth addiction, Sheff, David.

RC 564.5 .W65 W66 2006

Women under the influence, Columbia University. National Center on Addiction and Substance Abuse.

RC 564.68 .D365 2006

Addiction and mood disorders: a guide for clients and families, Daley, Dennis C.

### **eBooks**

HV 4998 .H54 2002 EB

High anxieties [electronic resource]: cultural studies in addiction Brodie, Janet Farrell.

HV 4998.G73 1999 EB

Coming clean [electronic resource]: overcoming addiction without treatment, Granfield, Robert

HV 5000 .C2 R48 2003 EB

Responding to the oppression of addiction [electronic resource]: Canadian social work perspectives, Csiernik, Rick.

HV 5053 .A436 2002 EB

Alcohol and violence [electronic resource]: epidemiology, neurobiology, psychology, and family issues, Galanter, Marc.

HV5068.D781999EB

Drunkard's progress [electronic resource]: narratives of addiction, despair, and recovery, Crowley, John William

HV 5068 .M36 2004 EB

Goodbye, Mr. Wonderful [electronic resource]: alcoholism, addiction and early recovery, McCully, C. B.

HV 5132 .C47 2000 EB

Children of addiction [electronic resource]: research, health, and public policy issues, Fitzgerald, Hiram E.

HV 5801 .S733 2002 EB

Stages and pathways of drug involvement [electronic resource]: examining the gateway hypothesis, Kandel, Denise B.

RC 552 .R44 E53 2000 EB

Loving him without losing you [electronic resource]: how to stop disappearing and start being yourself, Engel, Beverly.

RC 563.4 .D78 2003 EB

Drug addiction [electronic resource]: a medical dictionary, bibliography, and annotated research guide to Internet references, Parker, Philip M.

RC 564 .G384 2001 EB

The orchestration of joy and suffering [electronic resource]: understanding chronic addiction, Gerwe, Corinne F.

RC 564 .P784 2002 EB

The psychodynamics of addiction [electronic resource], Weegmann, Martin.

RC 564 .P855 2004 EB

Psychosocial treatments [electronic resource], McCance-Katz, Elinore F.

RC 565 .R43 2003 EB

Recent developments in alcoholism. Vol. 16, Research on alcoholism treatment: methodology, psychosocial treatment, selected treatment topics, research priorities [electronic resource], Galanter, Marc.

RC 568 .O58 B37 2003 EB

Basic and clinical science of opioid addiction [electronic resource], Kuntze, Marcus F.

RM 315 .C66 2003 EB

Comite de Expertos de la OMS en Farmacodependencia [electronic resource] WHO Expert Committee on Addiction-Producing Drugs

### **Community Resources**

The following programs or organizations are currently providing information and/or services for individuals needing assistance as a result of the use of illicit drugs and/or the abuse of alcohol:

**Alcoholics Anonymous (575) 397-7009**

Alcoholics Anonymous is a support group for recovering alcoholics, and is also adaptable to persons recovering from other forms of dependencies. Al-A-Teen is a group for teenagers of relatives who drink; and Al-A- Non is a group for family members of those who drink. Spanish-speaking and non-smoking AA meetings are available. Call any time for information regarding place and time of meetings and/or assistance. There is no charge for participation in AA.

**Community Drug Coalition (575) 391-1301, P.O. Box 5403, Hobbs, NM 88240**

The Community Drug Coalition of Lea County is a 501c 3, non-profit organization established by local community leaders and private citizens to combat the growing drug problem in Hobbs and Lea County, New Mexico. The CDC began as a grass roots effort to combat drugs, and is comprised of a broad spectrum of community leaders, private citizens and volunteers.

**Guidance Center of Lea Co., Inc. (575) 393-3168, 24-hour (575) 393-6633, 920 W. Broadway, Hobbs, NM 88240**

The Guidance Center provides 24-hour crisis intervention services, which include marriage, family, child, individual, and alcohol/drug counseling, as well as psychological testing and assessment. Narcotics Anonymous meeting information is also available. The cost is based on individual's ability to pay.

**Lea Regional Mental Health Services, (575) 492-5000, Box 3000, 5419 Lovington Highway, Hobbs, NM 88240**

Lea Regional Mental Health Services treat acute mentally ill patients and drug/alcohol abuse when secondary to mental illness. Patients are referred to appropriate facilities for additional rehabilitation. Payment may be made through appropriate insurance.

**Palmer Drug Abuse Program, 397-6333 or (575) 397-6237, 200 E. Snyder, Hobbs, NM 88240**

The Palmer Drug Abuse Program provides substance abuse counseling for individuals twelve (12) years through twenty-five (25) years of age. Family counseling is also available. PDAP counselors are available and on call. There is no charge for the service.

**[Start Your Recovery](#) SAMHSA Hotline 1-800-662-4357**

Support for overcoming your recovery.

## **Student Life**

### **Appendix VI**

#### **Campus Housing**

At NMJC, residence halls are not just a place to eat and sleep; they are an integral part of college life. NMJC provides full-time students, carrying 12 or more semester hours, with modern, comfortable and affordable housing. Living in a residence hall provides the opportunity to meet new friends and associate with other students from diverse backgrounds. In the process, students grow and develop as people, capable of taking on the responsibilities of living with others.

NMJC has 4 residential housing facilities, including both traditional dormitories as well as apartments, with a total capacity of housing 385 students. Residence halls are furnished and air-conditioned, providing a comfortable living environment. Each residence hall features Wi-Fi access, computer access, basic cable, vending machines and access to on-site laundry facilities. In addition, multiple spaces are set aside for socializing and studying. All buildings at NMJC, including residence halls, are smoke-free. Residential staff reside in the facility and help students adjust to college life.

NMJC provides trained campus security 24 hours a day, 7 days a week. The housing complex is a gated community with key card access. In addition, each room is secured with key card locks.

#### **Glen & Rosemary Houston Thunderbird Hall and Harold Runnels Hall**

These halls offer traditional residence hall living. Each room consists of 2 beds, 2 desks, shelving and closet space for storage, local phone service, wireless Internet service, and cable TV. Living in the residence halls does require that you select either the 15 or 19-meal plan option.

#### **John Watson Apartments or Carroll Leavell Student Apartments**

These apartments offer a bit more privacy. Your private, carpeted bedroom, fully equipped with Internet, phone and cable TV access, will be furnished with an extra-long twin bed, a desk, shelving, and closet space. Bathrooms are shared with one other person. The full kitchen and living area will be shared by four people. Students in apartments are not required to purchase a meal plan; however, a 7-meal-per-week plan is available to apartment residents only, as well as the 15 and 19 meal plans if so desired.

#### **Campus Housing Requirement**

- All full-time students are expected to live in student housing with the following exceptions:
- The student's permanent residence is in Lea County;
- The student is married;
- The student is a veteran;
- The student is 21 years of age or older or will turn 21 during that school term;
- Campus housing is at 100% occupancy; or
- The student has permission from the Vice President for Student Services to live off campus.

On-campus housing for married couples or individuals with children is not provided. Additionally, NMJC has no co-ed housing options.

**The NMJC Residence Hall communities strive to incorporate the following:**

- Education - To ensure that teaching and learning take place beyond the classroom.
- Openness - So that ideas and thoughts can be discussed freely.
- Respect - To ensure that individuality is honored so diversity can be pursued.
- Caring - To ensure that the individual's well-being is supported and that service to the community is encouraged.
- Involvement - So that all individuals have a voice in decisions concerning their community.
- Ownership - To ensure that all individuals care for their building facilities and adjacent property.
- Celebration - So that NMJC history and culture are promoted through social and academic endeavors.

**Student Responsibilities (while in NMJC Student Housing)**

1. Consider the needs of other residents and balance them with your own needs;
2. Promote the care of the physical facilities, equipment, and services;
3. Communicate with other residents and staff members in order to build the type of relationships in which even complaints can be conveyed in a fair and mature way.

**Student Rights (while in NMJC Student Housing)**

1. To socialize in your room;
2. To sleep and study without disturbance;
3. To live in a supportive and stimulating community and be treated with dignity and respect;
4. To live in a safe, secure, healthy, and clean environment;
5. To enjoy access to a variety of programs, services, and facilities; and
6. To involve yourself and others in promoting an educational, open, respectful, responsible, caring, and celebrative community.

**Application and Payment**

- Residence halls and apartments require a \$25 non-refundable application fee prior to assignment.
- Students who cancel their room before August 1 (for Fall) will receive no penalty.
- Students who cancel after the above date will be subject to our cancellation policy.
- Students will not have an apartment or dorm reserved without submission of paperwork required by NMJC Housing and making proper payment arrangements to the NMJC Business Office or through the [Nelnet payment plan](#).

**Forms to be completed prior to check-in:**

[NMJC Room & Board Application](#)

[NMJC Vehicle Registration](#)

[Orientation Video](#)

## **Background Checks**

New Mexico Junior College (NMJC) performs criminal background checks on all individuals who apply to live in on-campus student housing (Glen & Rosemary Houston Thunderbird Hall, Harold Runnels Hall, John Watson Apartments or Carroll Leavell Student Apartments).

[NMJC Background Check Procedure](#)

## **Check-In**

Student Housing will open (the Wednesday before classes begin) Wednesday - Friday 10:00 a.m. – 6:00 p.m. and Saturday and 1:00 p.m. – 6:00 p.m. Upon arrival at NMJC, you will need to check-in at the Residence Life Office located at the Carroll Leavell Apartments to receive a key card for your room and have the opportunity to speak with staff regarding your assignment.

## **Check-Out Process**

Housing reserves the right to charge or fine the student per day if not vacated within the time allowed. The check-out process is as follows:

- Pack your belongings and move them out.
- Clean your room and bathroom. Please vacuum, dust, rearrange furniture and make sure all drawers and closets are empty.
- Close blinds; close and lock all windows.
- Have a housing supervisor inspect the room.
- Sign any paperwork and turn in key to supervisor.
- Improper check out results in a fine.
- Student belongings left behind will be discarded or donated to a local charity.

## **Schedule of Housing Opening/Closing Dates & Residence Fees**

Refer to the Official Calendar for housing opening and closing dates. Housing dates schedule and rates can be found on the NMJC website:

[Residential Life Rates & Dates](#)

Students unable to check-in within this period must call to make an appointment. Housing move-in/move-out days are set for the academic year.

## **Cancellation Policy**

The student may cancel the agreement without penalty on or before June 1 (Fall term). Students who cancel their agreement after the above date will be charged according to the schedule below. For cancellation after the applicable deadline but before the beginning of the semester, the student will be charged a \$250 fee for breach of the agreement. Room cancellations made after the beginning of the semester will receive a refund based on the following schedule:

- 90% during the first week of term
- 60% during the second week of term

- 50% during the third week of term
- 40% during the fourth week of term
- 30% during the fifth week of term
- 0% during & after the sixth week of term

Students with extenuating circumstances that may justify canceling the lease must submit a written request for a waiver to the Student Life Office. Such requests may or may not result in waiver of the fee for breach of the agreement, at the discretion of the College.

If a student is removed from campus housing due to violation(s) of the Housing Handbook/Student Code of Conduct, the student will not receive a refund for room cancellation. Students will not receive a refund for amount of room if the student is removed for violations of the NMJC Drug and Alcohol Policy pursuant to public law 101-226, SECTION 22, The Drug Free Schools and Communities Act Amendments of 1989.

### **Payment Policy**

Payment in full may be made at the NMJC Business Office or Cashier. A payment plan may be set up through [NELNET](#) located on the T-Bird web portal.

### **General Policies**

Signing and returning the “Room and Board” agreement or submitting the “Room and Board” agreement online constitutes acceptance of the agreement by the student. Submission of application will not be valid or processed without a \$25 housing application fee paid by check, money order or credit card. Payments should be made to:

**New Mexico Junior College**  
**Attn: Student Housing**  
**3 Thunderbird Circle**  
**Hobbs, NM 88240**

As a general rule, only full-time (minimum 12 credit hours/semester) students are allowed to live in the dorms. Should a student drop below the 12-credit minimum enrollment during the course of a semester, he/she may continue to live in the residence halls only with the approval of the Dean of Students or designee.

Part-time living arrangements may be made only with the approval of the Dean of Students or designee. The student may move from campus housing at the end of a semester or upon withdrawal from college. Release, however, from the “Room and Board” agreement is not automatic. Established check-out procedures must be followed.

The Housing Office makes room assignments. Efforts will be made to assign roommates having designated mutual requests. Please note that the date of receipt of the “Room and Board” contract and the availability of space will also be considered in making room assignments. NMJC reserves the right to make, change, or cancel room assignments in the interest of health, safety, or other reasons deemed valid by the College.

For information on Assistance/Service Animals in Campus Housing, please refer to Section VIII, Service and Assistance Animals on Campus of this handbook.

Students may request room changes and single dorm rooms, which will be granted on a space-available basis. Students must retain their original room and roommate assignment during the first two (2) weeks of each term. At the end of the two (2) weeks, room change requests should be submitted to the Assistant Housing Coordinator. Changing rooms without permission will result in a fine and can lead to eviction.

Students living in campus housing **must** supply:

- Personal hygiene items – soap, shampoo, toilet paper, etc.
- Cleaning and laundry supplies.
- Towels, washcloths, and shower curtain (70"x72").
- Pillow, sheets (extra-long, 36" X 84"), and blankets/comforter.
- Telephone.

Students are **not** permitted to bring or use:

- Hot plates, toaster ovens, space heaters, grills, air conditioning units, mattresses, couches, chairs, etc.
- Candles, incense burners or any open flames are also prohibited.
- Pets.
- Alcohol or illegal drugs.
- Explosives (including fireworks and ammunition).
- Weapons - firearms loaded or unloaded (including air, BB, paintball, facsimile weapons, and pellet guns), arrows, machetes, nun chucks, throwing stars, daggers, brass knuckles, switchblade knives, bowie knives, poniards, butcher knives, dirk knives, swords, sword canes, and any kind of sharp pointed canes, slingshots, slung shots, bludgeons; or any other weapons with which dangerous wounds can be inflicted.

Any in-room cooking violations will result in confiscation of the cooking appliance and a fine per resident per occurrence.

Room keys are the student's responsibility. If a key is lost or stolen, the student occupant responsible will be charged replacement costs, including any charges necessary to replace locking devices.

The student is responsible for reasonable cleanliness of his/her room. NMJC will assist with general housekeeping in the public areas of the campus housing facilities. When a repair is needed in a room, the student must notify the residence hall supervisor immediately. The residence hall supervisor will notify the maintenance department. Regular maintenance inspections will be made of the housing facilities, including the rooms. Repairs for damage by other than normal wear and tear will be charged to the responsible student's account as a fine. If a resident is found tampering with equipment or fixtures, they will be assessed fines per occurrence.

Students found propping the gates open will be disciplined through the Dean of Students office in accordance with the Student Code of Conduct. Keeping the gates locked at all times aids in unwelcome entry into the housing complex.



## General Courtesies

The foundation behind successful group living is being generally courteous to those you are around. Activities which prove disturbing to persons desiring study or sleep must be suspended regardless of the hour in which they occur. All residents are expected to observe the following courtesies and considerations to one another:

- Visitor Curfew in all dorm rooms or apartments is 12:00 a.m. Sunday-Thursday nights. Weekend Visitor Curfew in all dorm rooms or apartments is 1:00 a.m., Friday and Saturday nights. Students are allowed in the courtyard until 1:00 a.m. but must be cognizant of other students' rights and keep the noise level down. Visitor Curfew is mandatory for all guest and residents. Guests should never be left unattended.
- Quiet Hours in all dorm rooms or apartments is 10:00 p.m. Sunday-Thursday nights. Weekend Quiet Hours in all dorm rooms or apartments is 12:00 a.m., Friday and Saturday nights. Courtesy hours are observed 24-hours a day throughout residence halls. When asked by another resident or staff member to reduce noise level, residents are expected to immediately comply as a courtesy to fellow community members.
- Radio, television, or stereo volumes must be kept at a reasonable level. If asked to turn the volume down, a student is expected to comply. Continued disturbance will result in confiscation of the equipment. Stereos may not be played through open windows or in hallways. No apparatus (including air conditioning units) can be hung out of the windows or affixed to the outside of any building.
- Activities such as football, soccer, broom hockey, wrestling, basketball, skate boarding, bicycling, golf, etc., are not to be played or ridden inside residence halls or breezeways. Absolutely no dart boards are allowed. A fine per occurrence, per student will be assessed and the dart board will be confiscated.

Persistent violators of housing rules and regulations are making a statement that they cannot live cooperatively in a group setting. Eviction or relocation may be the best alternative. This decision will be at the discretion of the Dean of Students.

Resident complaints will be reviewed by the appropriate Housing Staff member or Dean of Students for necessary action. Additional restrictions may be imposed with financial sanctions during peak testing periods such as finals week. Generally, noise levels within the room should be audible only within the same room. Complaints regarding noise level should be referred to the on-call phone and/or the Residence Life Staff only after you have spoken to the party involved and attempted to work out the differences.

Campus housing facilities will be secured each evening. For safety reasons, door propping at exits is strictly prohibited at any time. Students are reminded to always keep their doors and windows locked and not to prop doors open for any reason. Residents or guests found propping locked doors open will be assessed a fine.

NMJC assumes no liability concerning legal obligation for injury to person (including death) or loss or damage to personal property, which occurs in its buildings or on its grounds prior to, during, or subsequent to the period of any College contract. Students living in campus housing are encouraged to carry appropriate insurance should any loss occur.

Students living in campus housing will be assigned boxes for the receipt of mail. The mail boxes are located in the office area of the Carroll Leavell Student Apartments. A student's mailing address will be as follows:

**Student Name**  
**Attn: Student Housing**  
**3 Thunderbird Circle**  
**NMJC, Box #**  
**Hobbs, NM 88240**

### **Housing Rules and Regulations**

Students living in campus housing do not give up their rights as students as a result of being Housing residents. However, problems that arise in campus housing or violations of Campus Housing regulations are usually taken care of immediately by the residence hall supervisor. Compliance with college housing rules and regulations is a condition of living on campus, as set forth in the Housing Handbook. Violations of the housing rules and regulations may also be violations of the Student Code of Conduct and will be referred to the Dean of Students.

Generally, when a problem exists that adversely affects a student's life in campus housing, the problem should be discussed/presented to the hall supervisor for resolutions. If the resolution of the problem is not satisfactory or if the magnitude and/or nature of the problem is extraordinary, the student is encouraged to discuss the problem with the Housing Supervisor.

For additional information concerning housing regulations please refer to the following:

[NMJC Housing Rules and Regulations](#)

### **Drugs and Alcohol**

The possession, use, sale, manufacture or distribution of marijuana and other drugs and their paraphernalia is not permitted on campus and violates federal law, regardless of age and in compliance with the Drug-Free Schools and Colleges Act. This prohibition applies regardless of whether the resident complies with state recreational use laws.

### **Medical Marijuana**

Possession of a Medical Marijuana Registry identification card, regardless of state issued, does not authorize a resident to possess, use or distribute marijuana in any on-campus housing facility or NMJC property. Residents who receive Medical Marijuana Registry identification may submit a petition to be released from their contract to the Dean of Students or designee.

### **Misuse of Legal Substances**

Various substances, even if legal, can have a dangerous or negative impact on an individual and the community in regards to health and academic success. Inhaling or ingesting a substance (including but not limited to nitrous oxide, glue, paint, gasoline, solvent, etc.) or using the substance other than for its intended purpose is a violation of the Student Code of Conduct and is prohibited. Use of prescription

drugs other than by the person to whom the drug is prescribed and/or not in accordance with the prescription is prohibited

### **Health and Safety**

In order to assure that no potential health, fire, or safety hazards are present, NMJC Housing staff will conduct health/safety checks of each residence hall/apartment, once a month, throughout each semester. Residents are responsible for sharing in the cleanliness and regular upkeep of the common areas such as kitchens, bathrooms, and living areas. It is each resident's responsibility to maintain his/her room within reasonable standards of room cleanliness.

Residents are not to adjust, obscure, or tamper with, in any way, alarm systems and/or any security system or device installed within campus housing facilities. During these health/safety checks, any policy violations will be documented and referred for disciplinary action. All housing units have a wet water sprinkler system and fire alarms in each living quarters and bedrooms. NMJC has one fire drill each semester to make sure occupants are aware of the evacuation plans and locations to which they are to assemble when an alarm sounds. Occupants are not permitted to use tobacco, including e-cigarettes, in any campus building including campus housing.

### **In Case of Illness**

Any illness of students living in campus housing should be reported by the student to the hall supervisor. If necessary, arrangements can be made to provide meals to a student confined to his / her room due to illness if he / she is on the meal plan. Students are encouraged to seek medical attention from a doctor.

### **Interim Housing During Breaks**

Residents must complete an online interim housing application to reside in on-campus housing over scheduled breaks. Only extenuating circumstances will be considered and accepted to stay on campus over break. These include but not limited to:

- In-season athlete required to stay for practices or games.
- Foreign students and some out of state students may qualify.
- Unsafe home environment.
- Student holds a job in Hobbs, students will be required to submit a schedule of days working with signature of employer.

A student may have to pay a prorated cost per day to stay in on-campus housing (\$15.25/day) and obey all rules and regulations of the College and Housing.

[Interim Housing Application](#)

## **Food Service**

Sodexo provides food services on campus, which include a snack bar, cafeteria dining, and catering services. The facilities are located in the Ben Alexander Student Learning Center. The catering service is available for both on and off campus activities. In addition, the cafeteria dining program provides up to nineteen nutritious meals weekly for students participating in the various meal program options. Serving

hours and dates for cafeteria dining are determined prior to the beginning of each semester. Individual meal prices are as follows:

### **Individual Meal Prices**

Breakfast	\$5.75 + tax = \$6.04
Lunch	\$6.75 + tax = \$7.09
Dinner	\$7.75 + tax = \$8.14
Weekend Brunch	\$6.75 + tax = \$7.09

### **Meal Plans**

7-Meal Plan	\$784 per semester	\$7.00 per meal
15-Meal Plan	\$1,440 per semester	\$6.00 per meal
19-Meal Plan	\$1,520 per semester	\$5.00 per meal

### [Meal Plans](#)

## **Intramural Activities**

The Student Life Office provides opportunities for students to compete in a variety of Intramural Activities. A schedule is published at the beginning of each semester and will be distributed to students. Typical events include, but are not limited to, volleyball, basketball, dodge ball, flag football, racquetball, pool, table tennis, and other sports and activities as student demand dictates. NMJC strives to provide positive activities and programs to meet student needs.

### **Assumption of Risk**

When participating in any athletic activity there is an assumption of risk that comes with the activity by the student. NMJC is not responsible for any injuries at NMJC outdoor or indoor facilities, at off-campus partnering facilities (Example: The CORE), or any Intramural Sporting events. It is your responsibility to obtain insurance and to be responsible regarding your personal safety. Please make sure you are physically fit to participate in any strenuous activity and get a doctor's check-up annually. By voluntarily utilizing fitness equipment and facilities, and/or participating in Intramural sports, you are releasing NMJC of any responsibility in case of injury. NMJC is not responsible for injuries or lost/stolen items.

## **Performing Arts**

NMJC's Performing Arts Department provides a variety of opportunities for students to participate and/or attend music and theatre performances throughout the year. These performances are held in the Watson Hall Auditorium where students may attend free of charge. The dates for performances can be accessed through the NMJC website's event calendar.

## **Student Clubs & Organizations**

Various clubs and organizations on the NMJC campus allow students opportunities to explore the various fields of professional and academic life, and in our quest to address student needs, new clubs

are encouraged and welcomed. Students interested in starting a new club or organization are encouraged to visit with the Student Life Office for further guidance.

The following clubs are recognized by NMJC as active, productive groups, which have a positive impact throughout the campus community:

**Band Club**  
**Mu Alpha Theta**  
**Student Government**  
**Phi Theta Kappa**  
**Student Ambassadors**  
**Skills USA**  
**Theatre Club**  
**Creative Club**

For a description of the purpose and function of any of the above listed clubs, please contact the Student Life Office.

New clubs are afforded a start-up budget of \$150 to help with early expenses. The Student Life Office is responsible for helping and implementing the start-up.

[New Club Application](#)

### **Student Organization Guidelines**

As a pre-requisite to operation on campus, all clubs will be recognized by the College and will agree to abide by regulations of the Board and club rules issued by the administration. No club shall be established or allowed to operate which discriminates against employees or students in violation of state or federal law. Student clubs and organizations are required to designate a full-time staff or faculty member, as a sponsor.

### **Club Procedures**

1. Clubs and organizations must meet a minimum of three times each semester. The times and dates of these regular meetings must be determined at the beginning of each semester.
2. Clubs are required to participate in two community service events per academic year, one per semester, with documentation provided to Student Life Office.
3. Clubs and organizations must provide a list of officers to the Student Life Office at the beginning of each academic year, and notify the office immediately if any change in officers occurs.
4. Faculty/Staff advisors must attend all regularly scheduled club and organization meetings and events.
5. Special events such as guest speakers, club or organization dinners, etc. must be scheduled at least one (1) month in advance. Requests for special events must be submitted to the Student Life Office one month prior to the event. The request form must have the signature of the Sponsor/Advisor.
6. All events must have administrative approval prior to scheduling the activity or event.

7. Meeting Space is available in the Ben Alexander Center Room 153. These should be coordinated with the Student Life Office. Special events (with authorization) may be held off-campus or in other areas of the campus and may count as one of your meetings.
8. Student club and organization members are expected to adhere to the NMJC Student Code of Conduct and abide by all regulations found in the current student handbook.
9. Club presidents are required to attend meetings/events and submit a written club report, including a list of students who attended, to the Student Life office after each meeting/event. If a club president cannot attend a meeting, a proxy from his/her club, preferably an officer must attend in his/her absence.

**NOTE:** If any club fails to comply with one or more of the aforementioned requirements, the Student Life office reserves the right to review and consider the revocation of club status for the next semester. No stipends will be paid for that semester.

Revocation of club status is defined as not being sanctioned by NMJC Student Life Office. At the end of the probation semester, the club status will be reconsidered and possibly reinstated.

Seven Hundred (\$700) is allotted for club sponsors paid in two installments, half in December and half in May. Clubs with two sponsors may have to share the stipend. A club must maintain a minimum average of five (5) student members in order to receive stipends.

All officially recognized student organizations sponsoring social functions, fundraisers, and/or volunteer activities, either on or off campus, MUST coordinate and register such functions with the Student Life Office. Student organizations and their sponsors are responsible for compliance with NMJC policies and regulations and all applicable state and federal laws. NMJC is judged by the actions of its students, on and off campus. Therefore, students will be responsible to College authorities for any questionable acts, regardless of where they are committed.

### **Student Government Association**

The Student Government Association (SGA) is comprised of representatives elected annually by the student body. The SGA serves as the voice for students for many activities and policies. SGA members serve on committees and gain the opportunity to meet people seeking improvements for NMJC's academic, social and cultural environment. The SGA discusses and studies issues pursuing the best interests of students that do not conflict with NMJC policies and regulations. The SGA may also represent NMJC at annual regional and national student government conventions. Your voice is important. Participation is open to any student enrolled at NMJC.

### **Student Travel**

Official student travel is defined as travel involving one or more students traveling to an event or activity that is organized or sponsored by NMJC. Sometimes staying overnight is required or preferred because of the distance or length of the event. The faculty/staff member or student club sponsor is responsible for ensuring that all NMJC rules and regulations are followed. Students in good standing, with at least a 2.0 GPA, and without disciplinary holds on their account, are eligible to travel. Each student will be evaluated on a case by case basis.

The faculty/staff member or club advisor/sponsor must complete and submit a Travel Request and Reimbursement form and a General Consent, Waiver and Release Form for students prior to the trip.

## **Section VII**

### **Service and Assistance Animals on Campus**

#### **Service and Assistance Animals**

NMJC is committed to compliance with state and federal laws regarding individuals with disabilities. All questions regarding service animals should be directed to the Accessibility Services office located on the first floor of the Ben Alexander Student Learning Center or via phone at (575-492-2576), fax (575-492-2559), or e-mail (krueda@nmjc.edu). No documentation will be required to bring service animals into academic buildings on campus. However, in the case of assistance animals residing in campus housing, the College will require that documentation be provided by the treating physician or mental health provider, which permits the College to determine:

1. That the individual has a disability for which the animal is needed.
2. How the animal assists the individual, including whether the animal has undergone any training.
3. The relationship between the disability and the assistance that the animal provides.

#### **Procedures & Forms**

1. Campus Housing Reasonable Accommodation Procedures
2. Verification Form for Housing Accommodations
3. Disability Accommodation Request Form for Campus Housing

#### **Service Animals Permitted on Campus**

Individuals with disabilities may be accompanied by their service animals in all NMJC buildings where members of the public or participants in services, programs or activities are allowed to go. By law, a service animal means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals. In some cases, the College may permit miniature horses on campus on a case-by-case basis, consistent with applicable law.

The work or tasks performed by a service animal must be directly related to the individual's disability. Examples of such tasks include, but are not limited to: assisting an individual with low vision with navigation, alerting individuals who are hard of hearing to the presence of people or objects; pulling a person's wheelchair; or aiding with stability or balance to an individual with a mobility disability.

Federal law does not require the individual to provide documentation that an animal has been trained as a service animal. The College may, however, ask if the animal is required because of a disability, as well as what work or task the animal has been trained to perform.

## **Exceptions**

The College may exclude a service animal from campus if its behavior poses a direct threat to the health or safety of others or when its presence fundamentally alters the nature of a program or activity. Furthermore, the College may ask an individual with a disability to remove a service animal from campus if the animal is out of control and the individual does not take effective action to control it; or if the animal is not housebroken. The service animal is considered an extension of the student and thus, is subject to the same code of conduct as a student would follow. Disruptive behavior by a service animal will be grounds for removal from an academic setting in the same manner that a disruptive student will be removed from the same environment.

## **Responsibilities of Individuals with Service Animals**

The College is not responsible for the care or supervision of a service animal. Individuals with disabilities are responsible for the control of their service animals at all times and must comply with all applicable laws and regulations, including vaccinations, licensure, animal health and leash laws. A service animal shall be restrained with a harness, leash, or other tether, unless an individual's disability precludes the use of a restraint or if the restraint would interfere with the service animal's safe, effective performance of work or tasks. If a service animal is not tethered, it must be otherwise under the individual's control, whether by voice control, signals, or other effective means.

Individuals are responsible for ensuring the immediate clean-up and proper disposal of all animal waste. Although the College may not charge an individual with a disability a service animal surcharge, it may impose charges for damages caused by a service animal in the same manner the College imposes charges for damages caused by students.

## **Assistance Animal Policy and Agreement for Campus Housing**

### **General Policy Statement and Purpose**

New Mexico Junior College ("NMJC" or "College") recognizes the importance of "Service Animals" as defined by the Americans with Disabilities Act Amendments Act (ADAAA) and the broader category of "Assistance Animals" under the Fair Housing Act that provide physical and/or emotional support to individuals with disabilities. NMJC is committed to allowing individuals with disabilities the use of a Service Animal on campus to facilitate their full-participation and equal access to the College's programs and activities. NMJC is also committed to allowing Assistance Animals necessary to provide individuals with disabilities an equal opportunity to use and enjoy College housing. This Policy explains the specific requirements applicable to an individual's use of an Assistance Animal in College housing. NMJC reserves the right to amend this Policy as circumstances require. This policy applies solely to "Assistance Animals" which may be necessary in College housing. It does not apply to "Service Animals" as defined by the ADAAA.

Although it is the policy of NMJC that individuals are generally prohibited from having animals of any type in College housing, NMJC will consider a request by an individual with a disability for reasonable accommodation from this prohibition to allow an Assistance Animal that is necessary because of a disability and reasonable. However, no Assistance Animal may be kept in College housing at any time prior to the individual receiving approval as a reasonable accommodation pursuant to this Policy.



The question in determining if an Assistance Animal will be allowed in College housing is whether or not the Assistance Animal is necessary because of the individual's disability to afford the individual an equal opportunity to use and enjoy College housing and its presence in College housing is reasonable. However, even if the individual with a disability establishes necessity for an Assistance Animal and it is allowed in College housing, an Assistance Animal is not permitted in any other areas of the College (e.g. dining facilities, libraries, academic buildings, athletic buildings and facilities, classrooms, labs, individual centers, etc.).

### **Definitions**

1. Assistance Animal: "Assistance Animals" are a category of animals that may work, aid, or perform physical tasks for an individual with a disability and/or provide necessary emotional support to an individual with a mental or psychiatric disability that alleviates one or more identified symptoms of an individual's disability, but which are not considered Service Animals under the ADA and NMJC's Service Animal Policy. Some Assistance Animals are professionally trained, but in other cases Assistance Animals provide the necessary support to individuals with disabilities without any formal training or certification. Dogs are commonly used as Assistance Animals, but any animal may serve a person with a disability as an Assistance Animal. It is important to note that animals that may be needed because of a disability may be identified by various names. For example, an individual may identify the animal as a companion animal, therapy animal, or emotional support animal.
2. Owner: The individual who has requested the accommodation and has received approval to bring an Assistance Animal into College Housing.
3. Accessibility Services: Collaborates with individuals, faculty, and staff to ensure that individuals with disabilities have equal access to all NMJC programs and activities.

### **Procedures for Requesting Assistance Animals in College Housing**

The procedure for requesting that an Assistance Animal be allowed in College Housing follows the general procedures set forth in the Reasonable Accommodation Policy for College Housing ("Reasonable Accommodation Policy") and the requirements set forth below. However, to the extent the requirements and procedures in this policy conflict with the Reasonable Accommodation Policy, this policy shall control.

### **Criteria for Determining If Presence of the Assistance Animal is Reasonable**

1. College housing is unique in several aspects including the mandatory assignment of roommates for many individuals and the mandate that individuals must share a room or suite in certain residence halls. To ensure that the presence of Assistance Animals is not an undue administrative burden or fundamental alteration of College housing, NMJC reserves the right to assign an individual with an Assistance Animal to a single room without a roommate.
2. However, for all requests for Assistance Animals, Accessibility Services shall nonetheless consult with Campus Housing in deciding on a case-by-case basis of whether the presence of an Assistance Animal is reasonable. A request for an Assistance Animal may be denied as unreasonable if the presence of the animal: (1) imposes an undue financial and/or

administrative burden; (2) fundamentally alters College housing policies; and/or (3) poses a direct threat to the health and safety of others or would cause substantial property damage to the property of others, including College property.

3. NMJC may consider the following factors, among others, as evidence in determining whether the presence of the animal is reasonable or in the making of housing assignments for individuals with Assistance Animals:
  - a. The size of the animal is too large for available assigned housing space;
  - b. The animal's presence would force another individual from individual housing (e.g. serious allergies);
  - c. The animal's presence otherwise violates individuals' right to peace and quiet enjoyment;
  - d. The animal is not housebroken or is unable to live with others in a reasonable manner;
  - e. The animal's vaccinations are not up-to-date;
  - f. The animal poses or has posed in the past a direct threat to the individual or others such as aggressive behavior towards or injuring the individual or others; or
  - g. The animal causes or has caused excessive damage to housing beyond reasonable wear and tear.

NMJC will not limit room assignments for individuals with Assistance Animals to any particular building or buildings because the individual needs an Assistance Animal due to a disability.

#### **Access to College Facilities by Assistance Animals**

- Assistance Animals

An Assistance Animal must be contained within the Owner's privately assigned individual living accommodations (e.g., room, suite, apartment) except to the extent the individual is taking the animal out for natural relief. When an Assistance Animal is outside the private individual living accommodations, it must be in an animal carrier or controlled by a leash or harness. Assistance Animals are not allowed in any College facilities other than College residence halls (e.g. dormitories, suites, apartments, etc.) to which the individual is assigned.

- Dominion and Control

Notwithstanding the restrictions set forth herein, the Assistance Animal must be properly housed and restrained or otherwise under the dominion and control of the Owner at all times. No Owner shall permit the animal to go loose or run at large. If an animal is found running at large, the animal is subject to capture and confinement and immediate removal from College housing.

#### **Owner's Responsibilities for Assistance Animal**

If the College grants an Owner's request to have an Assistance Animal live with the Owner, the Owner is solely responsible for the custody and care of the Assistance Animal and must meet the following requirements:

## General Responsibilities

1. The Owner must abide by current county and state ordinances, laws, and/or regulations pertaining to licensing, vaccination, and other requirements for animals. It is the Owner's responsibility to know and understand these ordinances, laws, and regulations. The College has the right to require documentation of compliance with such ordinances, laws, and/or regulations, which will include a vaccination certificate. The College reserves the right to request documentation showing that the animal has been licensed.

### Dogs (Service and Assistance Animals)

- All required immunizations must be up-to-date and a copy of the immunizations must be on file with the Accessibility Services.
- Dogs must be licensed and a copy of the license must be on file with Accessibility Services.
- Dogs must be spayed or neutered. A copy of the veterinarian's report must be on file with Accessibility Services.
- A Certificate of Health signed by a veterinarian certifying the dog is healthy and free from any signs of infectious or contagious diseases, parasites, etc. must be on file with the Accessibility Services.
- Collars and tags must be worn at all times. The dog must be kept on a leash at all times when outside the residence hall or apartment. Dogs must never be allowed to run freely.
- Dogs must possess friendly and sociable characteristics. A specific dog can be restricted from the premises by the Director of Student Life or designee based on any confirmed threatening or territorial behavior.
- Dog obedience and training programs are highly recommended.

### Domestic Cats (Assistance Animals Only)

- All required immunizations must be up-to-date and a copy of the immunizations must be on file with Accessibility Services.
- Cats must be licensed and a copy of the license must be on file with Accessibility Services.
- Cats must be spayed or neutered. A copy of the veterinarian's report must be on file with Accessibility Services.
- A Certificate of Health signed by a veterinarian certifying the cat is healthy and free from Any signs of infectious or contagious diseases, parasites, etc. must be on file with Accessibility Services.
- Collars and tags must be worn at all times. The cat must be kept on a leash at all time when outside the residence hall or apartment. Cats must never be allowed to run freely.

### Any Other Animal

- To be considered on a case by case basis by Accessibility Services or designee. Dangerous wild animals (big cats, apes, bears, hybrids of these animals), primates, high rabies risk animals (bats, fox, raccoon, coyote) venomous animals, or domestic animals

with unknown health history are not allowed.

2. The Owner is required to clean up after and properly dispose of the animal's waste promptly in a safe and sanitary manner and, when provided, must use animal relief areas designated by NMJC.

#### Standards of Behavior by Animal and Animal Owner

- Animals require daily food and attention, as well as a daily assessment of their general health, behavior and overall welfare.
- Animals cannot be left unattended overnight at any time. If the Owner must be away, they must either take the animal with them, or make arrangements for them to be cared for elsewhere, which does not include other residence hall or apartment spaces.
- Emotional support animals must not be taken into the residence hall or apartment offices, administrative offices, common space or student living areas.
- Animal feces, defined as cat litter box contents and any solid animal waste, must be disposed of properly. It is the Owner's responsibility to remove feces from NMJC grounds, dispose of it in a plastic bag, and then place that bag in the garbage dumpsters outside. Cleanup must occur IMMEDIATELY. Animal feces may not be disposed of in any trash receptacle or through the sewer system inside any building on the NMJC campus. Waste MUST be taken to any residence hall or apartment dumpster for disposal.
- Residents with cats must properly maintain litter boxes. In consideration of the health of the cat and occupants of the apartment or the residence hall room, cat litter box contents must be disposed of properly and regularly. The litter box must be changed with new cat litter regularly as outlined by the manufacturer.
- Animal-accidents within the residence hall room or apartment must be promptly cleaned up using appropriate cleaning products.
- Regular and routine cleaning of floors, kennels, cages, and litter boxes must occur. The odor of an animal emanating from the residence hall room or apartment is not acceptable. (see Cleaning Section below)
- Any flea infestation must be attended to promptly by the NMJC contracted professional extermination company at Owner's expense. Owners are expected to promptly notify the Campus Housing office and arrange for extermination when a flea problem is noted. Animal Owners may take some precautionary measures such as: flea medications prescribed by veterinarians, flea and tick collars, taking your animal to the veterinarian for flea and tick baths. However, Campus Housing staff may not use chemical agents and insecticides to exterminate fleas and ticks. Because not all of the precautions listed above can prevent flea and tick infestations, the Owner is responsible for extermination costs after vacating the residence hall room or apartment. The College shall have the right to bill the Owner's account for unmet obligations under this provision.
- Animals must not be allowed to disrupt others (e.g., barking continuously, growling, yowling, howling, etc.). Animals which constitute a threat or nuisance to staff, residents or property, as determined by the Student Housing Coordinator or designee, must be removed within seven (7) calendar days (1 week) of notification. If NMJC Public Safety personnel determine an animal poses an immediate threat, animal control may be summoned to remove the animal. If the behavior of an animal can be addressed by the

Owner and the Owner can change the behavior of an animal so the pet does not have to be removed, then a written action plan must be submitted by the Owner. The action plan must outline the action to take place to alleviate the problems, and must give a deadline as to length of time the plan will take to complete. Any action plan must meet the approval of the Student Housing Coordinator or designee. The day after the deadline for removal from the apartment, Campus Housing Staff will do a residence hall room or apartment inspection to check damages and infestation and then the mandatory cleaning and extermination will be scheduled. Any animal Owner found not adhering to the removal directive will be subject to disciplinary action, which could include contract cancellation.

- An animal must not be involved in an incident where a person experiences either the threat of or an actual injury as a result of the animal's behavior. The animal Owner will take all reasonable precautions to protect College staff and residents, as well as the property of the College and of the residents.
  - The Owner will notify Campus Housing staff via the hall office if the animal has escaped its confines and is unable to be located within eight (8) hours.
  - All liability for the actions of the animal (bites, scratches, etc.) is the responsibility of the Owner. Violations concerning any of the aforementioned may result in the resident having to find alternative housing off-campus for the animal and, as warranted, may also result in a resident being in breach of their housing contract.
3. The Owner is required to ensure the animal is well cared for at all times. Any evidence of mistreatment or abuse may result in immediate removal of the Assistance Animal and/or discipline for the responsible individual.
  4. NMJC will not ask for or require an individual with a disability to pay a fee or surcharge for an approved Assistance Animal.
  5. An individual with a disability may be charged for any damage caused by his or her Assistance Animal beyond reasonable wear and tear to the same extent that it charges other individuals for damages beyond reasonable wear and tear. The Owner's living accommodations may also be inspected for fleas, ticks or other pests if necessary as part of the College's standard or routine inspections. Whenever College personnel enter the Owner's living accommodations to perform any inspections or work orders, the Owner shall remove the Assistance Animal to another room and shall secure the Assistance Animal in a kennel or other similar restraint. The College shall have the right to bill the Owner's account for unmet obligations under this Provision.
  6. The Owner must fully cooperate with College personnel in regard to meeting the terms of this Policy and developing procedures for care of the animal (e.g., cleaning the animal, feeding/watering the animal, designating an outdoor relief area, disposing of feces, etc.).
  7. Assistance Animals may not be left overnight in College Housing to be cared for by any individual other than the Owner. If the Owner is to be absent from his/her residence hall overnight or longer, the animal must accompany the Owner. The Owner is responsible for ensuring that the Assistance Animal is contained, as appropriate, when the Owner is not present

during the day while attending classes or other activities.

8. The Owner agrees to abide by all equally applicable residential policies that are unrelated to the individual's disability such as assuring that the animal does not unduly interfere with the routine activities of the residence or cause difficulties for individuals who reside there.
9. The animal is allowed in College housing only as long as it is necessary because of the Owner's disability. The Owner must notify Accessibility Services in writing if the Assistance Animal is no longer needed or is no longer in residence. To replace an Assistance Animal, the new animal must be necessary because of the Owner's disability and the Owner must follow the procedures in this Policy and the Reasonable Accommodation Policy when requesting a different animal.

#### Cleaning and Damages

- When the resident moves out of his/her apartment or residence hall room, or no longer owns the animal, the apartment or residence hall room will be assessed to determine if damage to department property can be attributed to the animal. Campus Housing maintains the right to conduct apartment or residence hall room inspections for the purpose of assessing damage caused by the animal or otherwise determine the resident's compliance with this procedure.
  - The animal Owner has an obligation to make sure that the apartment or residence hall room is as clean as the original standard. If the apartment or room has carpeting, this also includes regular vacuuming and spot cleaning. Damages and extraordinary cleaning caused by the animal are the responsibility of the resident. Replacement or repair of damaged items will be the financial responsibility of the Owner and assessed by members of the Campus Housing staff.
10. NMJC personnel shall not be required to provide care or food for any Assistance Animal including, but not limited to, removing the animal during emergency evacuation for events such as a fire alarm. Emergency personnel will determine whether to remove the animal and may not be held responsible for the care, damage to, or loss of the animal.
  11. The individual must provide written consent for Accessibility Services to disclose information regarding the request for and presence of the Assistance Animal to those individuals who may be impacted by the presence of the animal including, but not limited to, Campus Housing personnel and potential and/or actual roommate(s)/neighbor(s). Such information shall be limited to information related to the animal and shall not include information related to the individual's disability.

#### **Removal of Assistance Animal**

The College may require the individual to remove the animal from College housing if:

1. The animal poses a direct threat to the health or safety of others or causes substantial property damage to the property of others.
2. The animal's presence results in a fundamental alteration of a College program.
3. The Owner does not comply with the Owner's Responsibilities set forth above.

4. The animal or its presence creates an unmanageable disturbance or interference with the College community.

The Owner shall report to Accessibility Services any instances in which the Assistance Animal has acted in an aggressive manner towards others, bitten or injured any person within 24 hours of any such occurrence. The College will base such determinations upon the consideration of the behavior of the particular animal at issue, and not on speculation or fear about the harm or damages an animal may cause. Any removal of the animal will be done in consultation with Accessibility Services and may be appealed to the College's Director of Administrative Services following the procedure set forth in Paragraph five (5) of the Reasonable Accommodation Policy. The Owner will be afforded all rights of due process and appeal as outlined in that process.

Should the Assistance Animal be removed from the premises for any reason, the Owner is expected to fulfill his/her housing obligations for the remainder of the housing contract.

#### **Non-retaliation Provision**

NMJC will not retaliate against any person because that individual has requested or received a reasonable accommodation in College housing, including a request for an Assistance Animal.

## **Reasonable Accommodation Procedures for Campus Housing**

### **Introduction and Background**

NMJC recognizes the importance of providing reasonable accommodations in its housing policies and practices where necessary for individuals with disabilities to use and enjoy Campus housing. These procedures explain the specific requirements and guidelines which govern requests for reasonable accommodations in Campus housing. NMJC reserves the right to amend these procedures at any time as circumstances require.

### **Procedure for Requesting Reasonable Accommodations (Excluding Requests for Service Animals under the Americans with Disabilities Act Amendments Act)**

The Office of Student Disability Services is responsible for evaluating whether to grant or deny requests for reasonable accommodation in Campus housing. In evaluating the request, Accessibility Services will consult with the Director of Student Life, as necessary, to determine whether the requested accommodation is necessary and reasonable. Individuals with a disability who reside or intend to reside in Campus housing who believe they need a reasonable accommodation must contact the Student Disability Services Counselor.

Requests for reasonable accommodations in Campus housing policies and practices are governed by the following requirements:

1. Requesting a Housing Accommodation
  - An individual with a disability must complete the "Disability Accommodation Request Form for Campus Housing" (the "Request Form") to request a reasonable accommodation. Copies of the Request Form are available from Accessibility Services. If

the individual requires assistance in completing the Request Form because of his/her disability, the Accessibility Services will provide assistance in completing the form.

- NMJC will accept and consider requests for reasonable accommodation in Campus housing at any time. The individual making the request for accommodation should complete and provide the Request Form to Student Disability Services as soon as practicably possible before moving into Campus housing.
- If the need for the accommodation arises when an individual already resides in Campus housing, he/she should contact Accessibility Services and complete the Request Form as soon as practicably possible. NMJC cannot guarantee that it will be able to meet the accommodation needs during the semester or term in which the request is received.
- Absent exceptional circumstances, the College will attempt to provide a written response to a reasonable accommodation request within seven (7) calendar days (1 week) of receiving the information described in paragraph two (2) below.

2. Information that may be requested for Housing-Related Reasonable Accommodation Requests, Accessibility Services shall limit its requests for information to only the information necessary to verify whether the individual making the request has a disability and/or to evaluate if the reasonable accommodation is necessary to provide the individual an equal opportunity to use and enjoy Campus housing.

- **Obvious Disability:** If the individual's disability and the necessity for the accommodation are obvious (e.g. an individual with a physical disability using a wheelchair needs an accessible room), the individual need only explain what type of accommodation he/she is requesting. No verification of disability and/or necessity is required under these circumstances.
- **Non-Obvious Disability/Necessity:** If the disability is obvious but the need for the accommodation is not obvious, the Campus may require the individual to complete the Reasonable Accommodation Verification Form for Campus Housing ("Verification Form") and designate a reliable third party who can verify that the requested accommodation is necessary to provide the individual an equal opportunity to use and enjoy Campus housing, but may not seek information about the individual's disability.
- If the disability and necessity for the accommodation are not obvious, Accessibility Services will require the individual to complete the Verification Form and designate a reliable third party who can verify that the individual has a disability and that the requested accommodation is necessary to provide the individual an equal opportunity to use and enjoy Campus housing.
- A reliable third party is someone who is familiar with the individual's disability and the necessity for the requested accommodation (may not be a family member). A reliable third-party includes, but is not limited to, a doctor or other medical professional or a non-medical service agency (e.g., National Association of the Deaf).
- Absent exceptional circumstances, within seven (7) calendar days (1 week) of receiving the completed Verification Form from the third-party, the Student Disability Services Counselor, after consultation with the Student Housing Coordinator, will determine if the accommodation is necessary because of a disability to provide the individual an equal opportunity to use and enjoy Campus housing.



- If the third party returns the Verification Form without sufficient information for Accessibility Services to determine whether an accommodation is necessary, the Accessibility Services will inform the individual in writing of the verification's insufficiency and may request additional information, including speaking directly with the individual supplying the third-party verification, within seven (7) calendar days (1 week) of receiving the verification.
- The individual making the request for accommodation must cooperate with Accessibility Services in a timely manner in providing all information needed to determine whether the requested accommodation is necessary.

### 3. Determination of Reasonableness

- Accessibility Services may deny the requested accommodation if it is unreasonable. Accessibility Services shall consult with the Director of Student Life to determine if implementing the requested accommodation is reasonable.
- An accommodation is unreasonable if it: (1) imposes an undue financial and/or administrative burden; (2) fundamentally alters Campus housing policies; (3) poses a direct threat to the health and safety of others or would cause substantial property damage to the property of others, including Campus property; and/or (4) is otherwise unreasonable to the operation of the Campus.

### 4. Approval of Accommodation

- If Accessibility Services determines a requested accommodation is necessary and is not unreasonable, it will verbally contact the individual to arrange a meeting to discuss the implementation of the accommodation

### 5. Denial of Accommodation/Appeal

- If Accessibility Services determines a requested accommodation is necessary but unreasonable, Student Disability Services will contact the individual, in writing, within seven (7) calendar days (1 week) of its determination and engage in an interactive process with the individual to determine if there are alternative accommodations that might effectively meet the individual's disability-related needs.
- If the individual is unwilling to accept any alternative accommodation offered by Accessibility Services or there are no alternative accommodations available, the Accessibility Services will provide a verbal explanation and written notification to the individual of the denial, the reasons for the denial, the right to appeal the decision, and the procedures for the appeals process. The appeal shall be in writing and made within seven (7) calendar days (1 week) of the notification from the individual of his/her unwillingness to accept any of the alternative accommodations offered or the determination that there are no alternative accommodations available.
- All appeals are reviewed by the New Mexico Junior College Director of Administrative Services. If the appeal is denied, the Director of Administrative Services shall provide written notification of the denial to the individual and a written explanation with all of the reasons for the denial.
- An individual may also use the grievance procedure provided under the general campus

Student Complaint Process. This process can be found in the NMJC Student Handbook under the Formal Complaints section. (Section I)

#### 6. Confidentiality and Recordkeeping

In processing requests for reasonable accommodations, the College will take all steps required by federal, state, and/or local law to protect the confidentiality of any information or documentation disclosed in connection with the requests. Such measures may include limiting access to such information to individuals specifically designated to determine and implement requests for reasonable accommodations, who will disclose the information only to the extent necessary to determine whether to grant the request, determine if the request is unreasonable, and implement any request granted, keeping all written requests and accompanying documentation in a secure area to which only those designated individuals have access, except as otherwise required by law.

#### 7. Non-retaliation Provision

NMJC will not retaliate against any individual because that individual has requested or received a reasonable accommodation in Campus housing.

## Section VIII Title IX

### POLICY: Equal Opportunity, Harassment, and Nondiscrimination

#### 1. Glossary

- **Advisor** means a person chosen by a party or appointed by NMJC to accompany the party to meetings related to the resolution process, to advise the party on that process, and to conduct cross-examination for the party at the hearing, if any.
- **Complainant** means an individual who is alleged to be the victim of conduct that could constitute harassment or discrimination based on a protected class; or retaliation for engaging in a protected activity.
- **Complaint (formal)** means a document submitted or signed by a Complainant or signed by the Title IX Coordinator alleging harassment or discrimination based on a protected class or retaliation for engaging in a protected activity against a Respondent and requesting that NMJC investigate the allegation.
- **Confidential Resource** means an employee who is not a Mandated Reporter of notice of harassment, discrimination, and/or retaliation (irrespective of Clery Act Campus Security Authority status).
- **Day** means a business day when NMJC is in normal operation.

- **Directly Related Evidence** is evidence connected to the complaint, but is neither inculpatory (tending to prove a violation) nor exculpatory (tending to disprove a violation) and will not be relied upon by the investigation report.
- **Education program or activity** means locations, events, or circumstances where NMJC exercises substantial control over both the Respondent and the context in which the sexual harassment or discrimination occurs and also includes any building owned or controlled by a student organization that is officially recognized by NMJC.
- **Final Determination:** A conclusion by preponderance of the evidence that the alleged conduct did or did not violate policy.
- **Finding:** A conclusion by a preponderance of the evidence that the conduct did or did not occur as alleged (as in a “finding of fact”).
- **Formal Grievance Process** means a method of formal resolution designated by NMJC to address conduct that falls within the policies included below, and which complies with the requirements of the Title IX regulations (34 CFR §106.45).
- **Grievance Process Pool** includes any investigators, hearing officers, appeal officers, and Advisors who may perform any or all of these roles (though not at the same time or with respect to the same case).
- **Hearing Decision-maker** refers to those who have decision-making and sanctioning authority within the Recipient’s Formal Grievance process.
- **Investigator** means the person or persons charged by NMJC with gathering facts about an alleged violation of this Policy, assessing relevance and credibility, synthesizing the evidence, and compiling this information into an investigation report and file of directly related evidence.
- **Mandated Reporter** means an employee of NMJC who is obligated by policy to share knowledge, notice, and/or reports of harassment, discrimination, and/or retaliation with the Title IX Coordinator.
- **NMJC** means New Mexico Junior College.
- **Notice** means that an employee, student, or third-party informs the Title IX Coordinator or other Official with Authority of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct.
- **Official with Authority (OWA)** means an employee of NMJC explicitly vested with the responsibility to implement corrective measures for harassment, discrimination, and/or retaliation on behalf of NMJC.
- **Parties** include the Complainant(s) and Respondent(s), collectively.
- **Preponderance of the evidence** means that the proof need only show facts are more likely so than not.

- **Relevant Evidence** is evidence that tends to prove or disprove an issue in the complaint.
- **Remedies** are post-finding actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to NMJC's educational program.
- **Respondent** means an individual who has been reported to be the perpetrator of conduct that could constitute harassment or discrimination based on a protected class; or retaliation for engaging in a protected activity.
- **Resolution** means the result of an informal or Formal Grievance Process.
- **Sanction** means a consequence imposed by NMJC on a Respondent who is found to have violated this policy.
- **Sexual Harassment** is the umbrella category including the offenses of sexual harassment, sexual assault, stalking, and dating violence and domestic violence. [See Section 17.b. below](#), for greater detail.
- **Student** for the purpose of this policy, is defined as any individual who has accepted an offer of admission, or who is registered or enrolled for credit or non-credit bearing coursework, and who maintains an ongoing relationship with NMJC.
- **Title IX Coordinator** is the official designated by NMJC to ensure compliance with Title IX and NMJC's Title IX program. References to the Coordinator throughout this policy may also encompass a designee of the Coordinator for specific tasks.
- **Title IX Team** refers to the Title IX Coordinator and any member of the Grievance Process Pool.

## **2. Rationale for Policy**

NMJC is committed to providing a workplace and educational environment, as well as other benefits, programs, and activities, that are free from discrimination, harassment, and retaliation. To ensure compliance with federal and state civil rights laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the educational program or activity, NMJC has developed internal policies and procedures that provide a prompt, fair, and impartial process for those involved in an allegation of discrimination or harassment on the basis of protected class status, and for allegations of retaliation. NMJC values and upholds the equal dignity of all members of its community and strives to balance the rights of the parties in the grievance process during what is often a difficult time for all those involved.

## **3. Applicable Scope**

The core purpose of this policy is the prohibition of all forms of discrimination. Sometimes, discrimination involves exclusion from or different treatment in activities, such as admission, athletics, or employment. Other times, discrimination takes the form of harassment or, in the case of sex-based

discrimination, can encompass sexual harassment, sexual assault, stalking, sexual exploitation, dating violence or domestic violence.

When the Respondent is a member of the NMJC community, a grievance process may be available regardless of the status of the Complainant, who may or may not be a member of the NMJC community. This community includes, but is not limited to, students, student organizations, faculty, administrators, staff, and third parties such as guests, visitors, volunteers, invitees, and campers. The procedures below may be applied to incidents, to patterns, and/or to the campus climate, all of which may be addressed and investigated in accordance with this policy.

#### **4. Title IX Coordinator**

The Vice President of Student Services serves as the Title IX Coordinator and 504 Coordinator and oversees implementation of NMJC's Affirmative Action and Equal Opportunity plan and NMJC's policy on equal opportunity, harassment, and nondiscrimination. The Title IX Coordinator has the primary responsibility for coordinating NMJC's efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent discrimination, harassment, and retaliation prohibited under this policy.

#### **5. Independence and Conflict-of-Interest**

The Title IX Coordinator acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this policy and these procedures. The members of the Title IX Team are vetted and trained to ensure they are not biased for or against any party in a specific case, or for or against Complainants and/or Respondents, generally.

To raise any concern involving bias or conflict of interest by the Title IX Coordinator, contact NMJC President, John Shepherd Administration Building, 1 Thunderbird Circle, Hobbs, New Mexico 88240 (575)392-5004. Concerns of bias or a potential conflict of interest by any other Title IX Team member should be raised with the Title IX Coordinator.

Reports of misconduct or discrimination committed by the Title IX Coordinator should be reported to NMJC President, John Shepherd Administration Building, 1 Thunderbird Circle, Hobbs, New Mexico 88240 (575)392-5004. Reports of misconduct or discrimination committed by any other Title IX Team member should be reported to the Title IX Coordinator.

#### **6. Administrative Contact Information**

Complaints or notice of alleged policy violations, or inquiries about or concerns regarding this policy and procedures, may be made internally to:

Cathy Mitchell  
Title IX Coordinator  
Vice President of Student Services  
Ben Alexander Student Learning Center  
1 Thunderbird Circle  
Hobbs, New Mexico 88240

Telephone: (575)492-2761  
Email: cmitchell@nmjc.edu

NMJC has also classified certain employees as Mandated Reporters of any knowledge they have that a member of the community is experiencing harassment, discrimination, and/or retaliation. The section below on Mandated Reporting details which employees have this responsibility and their duties, accordingly.

Inquiries may be made externally to:

Office for Civil Rights (OCR)  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, D.C. 20202-1100  
Customer Service Hotline #: (800) 421-3481  
Facsimile: (202) 453-6012  
TDD#: (877) 521-2172  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)  
Web: <http://www.ed.gov/ocr>

For complaints involving employees: [Equal Employment Opportunity Commission](#) (EEOC)

Equal Employment Opportunity Commission  
100 Stanton Towers  
100 N. Stanton Street  
Suite 600  
El Paso, Texas 79901-1433  
Phone: 1-800-669-4000  
Facsimile: (915)-534-6701

Additionally, for complaints involving employees, New Mexico Human Rights Bureau:

New Mexico Human Rights Bureau  
New Mexico Department of Workforce Solutions  
1596 Pacheco Street, Suite 103  
Santa Fe, New Mexico 87505  
Toll free in New Mexico: 1-(800)-566-9471  
Phone: (505) 827-6838  
Fax: (505) 827-6878

## **7. Notice/Complaints of Discrimination, Harassment, and/or Retaliation**

Notice or complaints of discrimination, harassment, and/or retaliation may be made by filing a complaint with, or give verbal notice to, the Title IX Coordinator. Such a report may be made at any time (including during non-business hours) by using the telephone number or email address, or by mail to the office address, listed for the Title IX Coordinator.

A Formal Complaint means a document submitted or signed by the Complainant or signed by the Title IX Coordinator alleging a policy violation by a Respondent and requesting that NMJC investigate the allegation(s). A complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information in the section immediately above, or as described in this section. As used in this paragraph, the phrase “document filed by a Complainant” means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by NMJC) that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the complaint, and requests that NMJC investigate the allegations.

If notice is submitted in a form that does not meet this standard, the Title IX Coordinator will contact the Complainant to ensure that it is filed correctly.

## **8. Supportive Measures**

NMJC will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged harassment, discrimination, and/or retaliation.

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties to restore or preserve access to NMJC’s education program or activity, including measures designed to protect the safety of all parties or NMJC’s educational environment, and/or deter harassment, discrimination, and/or retaliation.

The Title IX Coordinator promptly makes supportive measures available to the parties upon receiving notice or a complaint. At the time that supportive measures are offered, NMJC will inform the Complainant, in writing, that they may file a formal complaint with NMJC either at that time or in the future, if they have not done so already. The Title IX Coordinator works with the Complainant to ensure that their wishes are considered with respect to the supportive measures that are planned and implemented.

NMJC will maintain the privacy of the supportive measures, provided that privacy does not impair NMJC’s ability to provide the supportive measures. NMJC will act to ensure as minimal an academic/occupational impact on the parties as possible. NMJC will implement measures in a way that does not unreasonably burden the other party.

These actions may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Referral to the Employee Assistance Program
- Referral to community-based service providers
- Visa and immigration assistance
- Student financial aid counseling
- Education to the institutional community or community subgroup(s)
- Altering campus housing assignment(s)
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing campus safety escorts
- Providing transportation accommodations
- Implementing contact limitations (no contact orders) between the parties

- Academic support, extensions of deadlines, or other course/program-related adjustments
- Trespass or No Contact orders
- Timely warnings
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX Coordinator

Violations of no contact orders will be referred to appropriate student or employee conduct processes for enforcement.

### **9. Emergency Removal**

NMJC can act to remove a student Respondent entirely or partially from its education program or activities on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal. This risk analysis is performed by the Title IX Coordinator in conjunction with the CARE Team using its standard objective violence risk assessment procedures.

In all cases in which an emergency removal is imposed, the student will be given notice of the action and the option to request to meet with the Title IX Coordinator prior to such action/removal being imposed, or as soon thereafter as reasonably possible, to show cause why the action/removal should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate. When this meeting is not requested in a timely manner, objections to the emergency removal will be deemed waived. A Complainant and their Advisor may be permitted to participate in this meeting if the Title IX Coordinator determines it is equitable to do so. This section also applies to any restrictions that a coach or athletic administrator may place on a student-athlete arising from allegations related to Title IX. There is no appeal process for emergency removal decisions.

A Respondent may be accompanied by an Advisor of their choice when meeting with the Title IX Coordinator for the show cause meeting. The Respondent will be given access to a written summary of the basis for the emergency removal prior to the meeting to allow for adequate preparation.

The Title IX Coordinator has sole discretion under this policy to implement or stay an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this policy will be grounds for discipline, which may include expulsion.

NMJC will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. As determined by the Title IX Coordinator, these actions could include, but are not limited to: removing a student from a residence hall, temporarily re-assigning an employee, restricting a student's or employee's access to or use of facilities or equipment, allowing a student to withdraw or take grades of incomplete without financial penalty, authorizing an administrative leave, and suspending a student's participation in extracurricular activities, student employment, student organizational leadership, or intercollegiate/intramural athletics.



At the discretion of the Title IX Coordinator, alternative coursework options may be pursued to ensure as minimal an academic impact as possible on the parties.

Where the Respondent is an employee, existing provisions for interim action are applicable.

### **10. Promptness**

All allegations are acted upon promptly by NMJC once it has received notice or a formal complaint. Complaints can take 60-90 business days to resolve, typically. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but NMJC will avoid all undue delays within its control.

Any time the general timeframes for resolution outlined in NMJC procedures will be delayed, NMJC will provide written notice to the parties of the delay, the cause of the delay, and an estimate of the anticipated additional time that will be needed as a result of the delay.

### **11. Privacy**

Every effort is made by NMJC to preserve the privacy of reports. NMJC will not share the identity of any individual who has made a report or complaint of harassment, discrimination, or retaliation; any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, or any witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g; FERPA regulations, 34 CFR part 99; or as required by law; or to carry out the purposes of 34 CFR Part 106, including the conducting of any investigation, hearing, or grievance proceeding arising under these policies and procedures.

NMJC reserves the right to determine which NMJC officials have a legitimate educational interest in being informed about incidents that fall within this policy, pursuant to the Family Educational Rights and Privacy Act (FERPA).

Only a small group of officials who need to know will typically be told about the complaint, including but not limited to: Student Services, General Counsel, NMJC Security and Safety and the Care team. Information will be shared as necessary with Investigators, Decision-makers, witnesses, and the parties. The circle of people with this knowledge will be kept as tight as possible to preserve the parties' rights and privacy.

NMJC may contact parents/guardians to inform them of situations in which there is a significant and articulable health and/or safety risk, but will usually consult with the student first before doing so.

Confidentiality and mandated reporting are addressed more specifically [below](#).

### **12. Jurisdiction of NMJC**

This policy applies to the education program and activities of NMJC to conduct that takes place on the campus or on property owned or controlled by NMJC, at NMJC-sponsored events, or in buildings owned or controlled by NMJC's recognized student organizations. The Respondent must be a member of NMJC's community in order for its policies to apply.

This policy can also be applicable to the effects of off-campus misconduct that effectively deprive someone of access to NMJC's educational program. NMJC may also extend jurisdiction to off-campus and/or to online conduct when the Title IX Coordinator determines that the conduct affects a substantial NMJC interest.

Regardless of where the conduct occurred, NMJC will address notice/complaints to determine whether the conduct occurred in the context of its employment or educational program or activity and/or has continuing effects on campus or in an off-campus sponsored program or activity. A substantial NMJC interest includes:

- a. Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law;
- b. Any situation in which it is determined that the Respondent poses an immediate threat to the physical health or safety of any student or other individual;
- c. Any situation that significantly impinges upon the rights, property, or achievements of oneself or others or significantly breaches the peace and/or causes social disorder; and/or
- d. Any situation that is detrimental to the educational interests or mission of NMJC.

If the Respondent is unknown or is not a member of NMJC community, the Title IX Coordinator will assist the Complainant in identifying appropriate campus and local resources and support options and/or, when criminal conduct is alleged, in contacting local or campus law enforcement if the individual would like to file a police report.

Further, even when the Respondent is not a member of the NMJC's community, supportive measures, remedies, and resources may be accessible to the Complainant by contacting the Title IX Coordinator.

In addition, NMJC may take other actions as appropriate to protect the Complainant against third parties, such as barring individuals from NMJC property and/or events.

When the Respondent is enrolled in or employed by another institution, the Title IX Coordinator can assist the Complainant in liaising with the appropriate individual at that institution, as it may be possible to allege violations through that institution's policies.

Similarly, the Title IX Coordinator may be able to assist and support a student or employee Complainant who experiences discrimination in an externship, study abroad program, or other environment external to NMJC where sexual harassment or nondiscrimination policies and procedures of the facilitating or host organization may give recourse to the Complainant.

### **13. Time Limits on Reporting**

There is no time limitation on providing notice/complaints to the Title IX Coordinator. However, if the Respondent is no longer subject to NMJC's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible.

Acting on notice/complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of policy) is at the discretion of the Title IX Coordinator, who may document

allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

When notice/complaint is affected by significant time delay, NMJC will typically apply the policy in place at the time of the alleged misconduct and the procedures in place at the time of notice/complaint.

#### **14. Online Harassment and Misconduct**

The policies of NMJC are written and interpreted broadly to include online manifestations of any of the behaviors prohibited below, when those behaviors occur in or have an effect on NMJC's education program and activities or use NMJC networks, technology, or equipment.

Although NMJC may not control websites, social media, and other venues in which harassing communications are made, when such communications are reported to NMJC, it will engage in a variety of means to address and mitigate the effects.

Members of the community are encouraged to be good digital citizens and to refrain from online misconduct, such as feeding anonymous gossip sites, sharing inappropriate content via social media, unwelcome sexual or sex-based messaging, distributing or threatening to distribute revenge pornography, breaches of privacy, or otherwise using the ease of transmission and/or anonymity of the Internet or other technology to harm another member of NMJC community.

Any online posting or other electronic communication by students, including cyber-bullying, cyber-stalking, cyber-harassment, etc., occurring completely outside of NMJC's control (e.g., not on NMJC networks, websites, or between NMJC email accounts) will only be subject to this policy when such online conduct can be shown to cause a substantial in-program disruption or infringement on the rights of others.

Supportive measures for Complainants will be provided, but protected speech cannot legally be subjected to discipline.

#### **15. Policy on Nondiscrimination**

NMJC adheres to all federal and state civil rights laws and regulations prohibiting discrimination in public institutions of higher education.

NMJC does not discriminate against any employee, applicant for employment, student, or applicant for admission on the basis of:

- Race,
- Color,
- Religion,
- National Origin,
- Ancestry,
- Sex (including pregnancy, childbirth, and related medical conditions),
- Sexual orientation (including perceived sexual orientation),
- Gender identity,
- Marital Status,
- Spousal affiliation,

- Disability (physical or mental),
- Serious medical condition,
- Age (40 and older),
- Genetic information,
- Veteran status
- or any other protected category under applicable local, state, or federal law, including protections for those opposing discrimination or participating in any grievance process on campus, with the Equal Employment Opportunity Commission, or other human rights agencies.

This policy covers nondiscrimination in both employment and access to educational opportunities. Therefore, any member of NMJC community whose acts deny, deprive, or limit the educational or employment access, benefits, and/or opportunities of any member of NMJC community, guest, or visitor on the basis of that person's actual or perceived membership in the protected classes listed above is in violation of NMJC policy on nondiscrimination.

When brought to the attention of NMJC, any such discrimination will be promptly and fairly addressed and remedied by NMJC according to the appropriate grievance process described below.

#### **16. Policy on Disability Discrimination and Accommodation**

NMJC is committed to full compliance with the Americans With Disabilities Act of 1990 (ADA), as amended, and Section 504 of the Rehabilitation Act of 1973, which prohibit discrimination against qualified persons with disabilities, as well as other federal and state laws and regulations pertaining to individuals with disabilities.

Under the ADA and its amendments, a person has a disability if they have a physical or mental impairment that substantially limits a major life activity.

The ADA also protects individuals who have a record of a substantially limiting impairment or who are regarded as disabled by NMJC, regardless of whether they currently have a disability. A substantial impairment is one that significantly limits or restricts a major life activity such as hearing, seeing, speaking, breathing, performing manual tasks, walking, or caring for oneself.

The Vice President of Student Services has been designated as NMJC's ADA/504 Coordinator responsible for overseeing efforts to comply with these disability laws, including responding to grievances and conducting investigations of any allegation of noncompliance or discrimination based on disability.

##### **a. Students with Disabilities**

NMJC is committed to providing qualified students with disabilities with reasonable accommodations and support needed to ensure equal access to the academic programs, facilities, and activities of NMJC.

All accommodations are made on an individualized basis. A student requesting any accommodation should first contact the Office of Accessibility Services, who coordinates services for students with disabilities.

The Office of Accessibility Services reviews documentation provided by the student and, in consultation with the student, determines which accommodations are appropriate for the student's particular needs

and academic program(s) in accordance with NMJC's applicable policies.

#### **b. Employees with Disabilities**

Pursuant to the ADA, NMJC will provide reasonable accommodation(s) to all qualified employees with known disabilities when their disability affects the performance of their essential job functions, except when doing so would be unduly disruptive or would result in undue hardship to NMJC.

An employee with a disability is responsible for submitting a request for an accommodation to the NMJC Human Resources office and providing necessary documentation. The NMJC Human Resources office will work with the employee's supervisor to identify which essential functions of the position are affected by the employee's disability and what reasonable accommodations could enable the employee to perform those duties in accordance with NMJC's applicable policies.

### **17. Policy on Discriminatory Harassment**

Students, staff, administrators, and faculty are entitled to an employment and educational environment that is free of discriminatory harassment. NMJC's harassment policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane but controversial or sensitive subject matters protected by academic freedom.

The sections below describe the specific forms of legally prohibited harassment that are also prohibited under NMJC policy. When speech or conduct is protected by the First Amendment, it will not be considered a violation of NMJC policy, though supportive measures will be offered to those impacted. All policies encompass actual and/or attempted offenses.

#### **a. Discriminatory Harassment**

Discriminatory harassment constitutes a form of discrimination that is prohibited by NMJC policy. Discriminatory harassment is defined as unwelcome conduct by any member or group of the community on the basis of actual or perceived membership in a class protected by policy or law.

NMJC does not tolerate discriminatory harassment of any employee, student, visitor, or guest. NMJC will act to remedy all forms of harassment when reported, whether or not the harassment rises to the level of creating a "hostile environment."

A hostile environment is one that unreasonably interferes with, limits, or effectively denies an individual's educational or employment access, benefits, or opportunities. This discriminatory effect results from harassing verbal, written, graphic, or physical conduct that is severe or pervasive **and** objectively offensive.

When discriminatory harassment rises to the level of creating a hostile environment, NMJC may also impose sanctions on the Respondent through application of the appropriate grievance process below.

#### **b. Sexual Harassment**

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the State of New Mexico regard Sexual Harassment, a specific form of discriminatory harassment, as an unlawful discriminatory practice.

NMJC has adopted the following definition of Sexual Harassment in order to address the unique environment of an academic community.

Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved.

Sexual Harassment, as an umbrella category, includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking, and is defined as:

Conduct on the basis of sex/gender or that is sexual that satisfies one or more of the following:

- 1) Quid Pro Quo:
  - a. an employee of NMJC,
  - b. conditions the provision of an aid, benefit, or service of NMJC,
  - c. on an individual's participation in unwelcome sexual conduct.
  
- 2) Sexual Harassment:
  - a. unwelcome conduct,
  - b. determined by a reasonable person,
  - c. to be so severe, and
  - d. pervasive, and,
  - e. objectively offensive,
  - f. that it effectively denies a person equal access to NMJC's education program or activity.
  
- 3) Sexual assault, defined as:
  - a) Sex Offenses, Forcible:
    - o Any sexual act directed against another person,
    - o without the consent of the Complainant,
    - o including instances in which the Complainant is incapable of giving consent.
  - b) Sex Offenses, Non-forcible:
    - o Incest:
      - 1) Non-forcible sexual intercourse,
      - 2) between persons who are related to each other,
      - 3) within the degrees wherein marriage is prohibited by New Mexico law.
    - o Statutory Rape:
      - 1) Non-forcible sexual intercourse,
      - 2) with a person who is under the statutory age of consent of sixteen years old (child) by a person at least 18 years of age and such person is at least 4 years older than the child
  
- 4) Dating Violence, defined as:
  - a. violence,
  - b. on the basis of sex,
  - c. committed by a person,
  - d. who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.

- i. The existence of such a relationship shall be determined based on the Complainant’s statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition—
- ii. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
- iii. Dating violence does not include acts covered under the definition of domestic violence.

5) Domestic Violence, defined as:

- a. violence,
- b. on the basis of sex,
- c. committed by a current or former spouse or intimate partner of the Complainant,
- d. by a person with whom the Complainant shares a child in common, or
- e. by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
- f. by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of New Mexico, or
- g. by any other person against an adult or youth Complainant who is protected from that person’s acts under the domestic or family violence laws of New Mexico.

6) Stalking, defined as:

- a. engaging in a course of conduct,
- b. on the basis of sex,
- c. directed at a specific person, that
  - i. would cause a reasonable person to fear for the person’s safety, or
  - ii. the safety of others; or
  - iii. Suffer substantial emotional distress.

For the purposes of this definition—

- (i) Course of conduct means two or more acts, including, but not limited to, acts in which the Respondent 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.
- (ii) Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
- (iii) Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

NMJC reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion/termination, for any offense under this policy.

**c. Force, Coercion, Consent, and Incapacitation**

As used in the offenses above, the following definitions and understandings apply:

**Force:** Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., “Have sex with me or I’ll hit you,” “Okay, don’t hit me, I’ll do what you want.”).

Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

**Coercion:** Coercion is unreasonable pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

**Consent is:**

- knowing, and
- voluntary, and
- clear permission
- by word or action
- to engage in sexual activity.

Individuals may experience the same interaction in different ways. Therefore, it is the responsibility of each party to determine that the other has consented before engaging in the activity.

If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.

For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Reasonable reciprocation can be implied. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain *their* consent to being kissed back.

Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, that sexual activity should cease within a reasonable time.

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent.

Proof of consent or non-consent is not a burden placed on either party involved in an incident. Instead, the burden remains on NMJC to determine whether its policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.



Consent in relationships must also be considered in context. When parties consent to bondage, discipline/dominance, submission/sadism and masochism or other forms of kink, non-consent may be shown by the use of a safe word. Resistance, force, violence, or even saying “no” may be part of the kink and thus consensual, so NMJC’s evaluation of communication in kink situations should be guided by reasonableness, rather than strict adherence to policy that assumes non-kink relationships as a default.

**Incapacitation:** A person cannot consent if they are unable to understand what is happening or is disoriented, helpless, asleep, or unconscious, for any reason, including by alcohol or other drugs. As stated above, a Respondent violates this policy if they engage in sexual activity with someone who is incapable of giving consent.

It is a defense to a sexual assault policy violation that the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated. “Should have known” is an objective, reasonable person standard that assumes that a reasonable person is both sober and exercising sound judgment.

Incapacitation occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why, or how” of their sexual interaction).

Incapacitation is determined through consideration of all relevant indicators of an individual’s state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

This policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating drugs.

#### **d. Other Civil Rights Offenses**

In addition to the forms of sexual harassment described above, which are covered by Title IX, NMJC additionally prohibits the following offenses as forms of discrimination that may be within or outside of Title IX when the act is based upon the Complainant’s actual or perceived membership in a protected class.

- Sexual Exploitation, defined as: taking non-consensual or abusive sexual advantage of another for their own benefit or for the benefit of anyone other than the person being exploited, and that conduct does not otherwise constitute sexual harassment under this policy. Examples of Sexual Exploitation include, but are not limited to:
  - Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed)
  - Invasion of sexual privacy.
  - Taking pictures, video, or audio recording of another in a sexual act, or in any other sexually-related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity, or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person’s consent), including the making or posting of revenge pornography
  - Prostituting another person

- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually-transmitted disease (STD) or infection (STI), without informing the other person of the infection
  - Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity
  - Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections
  - Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity
  - Knowingly soliciting a minor for sexual activity
  - Engaging in sex trafficking
  - Creation, possession, or dissemination of child pornography
- Threatening or causing physical harm, extreme verbal, emotional, or psychological abuse, or other conduct which threatens or endangers the health or safety of any person;
  - Discrimination, defined as actions that deprive, limit, or deny other members of the community of educational or employment access, benefits, or opportunities;
  - Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another;
  - Hazing, defined as acts likely to cause physical or psychological harm or social ostracism to any person within NMJC community, when related to the admission, initiation, pledging, joining, or any other group-affiliation activity;
  - Bullying, defined as:
    - Repeated and/or severe
    - Aggressive behavior
    - Likely to intimidate or intentionally hurt, control, or diminish another person, physically and/or mentally
    - That is not speech or conduct otherwise protected by the First Amendment.

Violation of any other NMJC policies may constitute a Civil Rights Offense when a violation is motivated by actual or perceived membership in a protected class, and the result is a discriminatory limitation or denial of employment or educational access, benefits, or opportunities.

Sanctions for the above-listed Civil Rights Offenses range from reprimand through expulsion/termination.

### **18. Retaliation**

Protected activity under this policy includes reporting an incident that may implicate this policy, participating in the grievance process, supporting a Complainant or Respondent, assisting in providing information relevant to an investigation, and/or acting in good faith to oppose conduct that constitutes a violation of this Policy.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. NMJC will take all appropriate and available steps to protect individuals who fear that they may be subjected to retaliation.

NMJC and any member of NMJC's community are prohibited from taking or attempting to take materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy and procedure.

The exercise of rights protected under the First Amendment does not constitute retaliation.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy and procedure does not constitute retaliation, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith.

## **19. Mandated Reporting**

All NMJC employees (faculty, staff, administrators) are strongly encouraged to report actual or suspected discrimination or harassment to appropriate officials immediately, though there are some limited exceptions. All Faculty (including, but not limited to coaches) and full time Professional Employees (as defined by the NMJC Employee Handbook) are Mandated Reporters. In order to make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements when consulting campus resources. On campus, some resources may maintain confidentiality and are not required to report actual or suspected discrimination or harassment. They may offer options and resources without any obligation to inform an outside agency or campus official unless a Complainant has requested the information be shared.

If a Complainant expects formal action in response to their allegations, reporting to any Mandated Reporter can connect them with resources to report crimes and/or policy violations, and these employees will immediately pass reports to the Title IX Coordinator (and/or law enforcement, if desired by the Complainant), who will take action when an incident is reported to them.

The following sections describe the reporting options at NMJC for a Complainant or third-party (including parents/guardians when appropriate):

### **a. Confidential Resources**

If a Complainant would like the details of an incident to be kept confidential, the Complainant may speak with:

- On-campus licensed professional counselors and staff
- Off-campus (non-employees):
  - Licensed professional counselors and other medical providers
  - Local rape crisis counselors
  - Domestic violence resources
  - Local or state assistance agencies
  - Clergy/Chaplains

- Attorneys

All of the above-listed individuals will maintain confidentiality when acting under the scope of their licensure, professional ethics, and/or professional credentials, except in extreme cases of immediacy of threat or danger or abuse of an individual with a disability, or when required to disclose by law or court order.

#### **b. Mandated Reporters and Formal Notice/Complaints**

All Faculty (including, but not limited to coaches) and full time Professional Employees (as defined by the NMJC Employee Handbook) are Mandated Reporters, with the exception of those who are designated as Confidential Resources, are Mandated Reporters and must promptly share with the Title IX Coordinator all known details of a report made to them in the course of their employment.

Complainants may want to carefully consider whether they share personally identifiable details with non-confidential Mandated Reporters, as those details must be shared with the Title IX Coordinator.

Generally, disclosures in climate surveys, classroom writing assignments or discussions, human subjects research, or at events such as “Take Back the Night” marches or speak-outs do not provide notice that must be reported to the Coordinator by employees, unless the Complainant clearly indicates that they desire a report to be made or a seek a specific response from the NMJC.

Supportive measures may be offered as the result of such disclosures without formal NMJC action.

Failure of a Mandated Reporter, as described above in this section, to report an incident of harassment or discrimination of which they become aware is a violation of NMJC policy and can be subject to disciplinary action for failure to comply.

Though this may seem obvious, when a Mandated Reporter is engaged in harassment or other violations of this policy, they still have a duty to report their own misconduct, though NMJC is technically not on notice when a harasser is also a Mandated Reporter unless the harasser does in fact report themselves.

Finally, it is important to clarify that a Mandated Reporter who is themselves a target of harassment or other misconduct under this policy is not required to report their own experience, though they are, of course, encouraged to do so.

#### **20. When a Complainant Does Not Wish to Proceed**

If a Complainant does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal complaint to be pursued, they may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and to comply with state or federal law.

The Title IX Coordinator has ultimate discretion over whether NMJC proceeds when the Complainant does not wish to do so, and the Title IX Coordinator may sign a formal complaint to initiate a grievance process upon completion of an appropriate violence risk assessment.

The Title IX Coordinator's decision should be based on results of the violence risk assessment that show a compelling risk to health and/or safety that requires NMJC to pursue formal action to protect the community.

A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence. Recipients may be compelled to act on alleged employee misconduct irrespective of a Complainant's wishes.

The Title IX Coordinator must also consider the effect that non-participation by the Complainant may have on the availability of evidence and NMJC's ability to pursue a Formal Grievance Process fairly and effectively.

When the Title IX Coordinator executes the written complaint, they do not become the Complainant. The Complainant is the individual who is alleged to be the victim of conduct that could constitute a violation of this policy.

When NMJC proceeds, the Complainant (or their Advisor) may have as much or as little involvement in the process as they wish. The Complainant retains all rights of a Complainant under this Policy irrespective of their level of participation. Typically, when the Complainant chooses not to participate, the Advisor may be appointed as proxy for the Complainant throughout the process, acting to ensure and protect the rights of the Complainant, though this does not extend to the provision of evidence or testimony.

Note that NMJC's ability to remedy and respond to notice may be limited if the Complainant does not want NMJC to proceed with an investigation and/or grievance process. The goal is to provide the Complainant with as much control over the process as possible, while balancing NMJC's obligation to protect its community.

In cases in which the Complainant requests confidentiality/no formal action and the circumstances allow NMJC to honor that request, NMJC will offer informal resolution options (see below), supportive measures, and remedies to the Complainant and the community, but will not otherwise pursue formal action.

If the Complainant elects to take no action, they can change that decision if they decide to pursue a formal complaint at a later date. Upon making a formal complaint, a Complainant has the right, and can expect, to have allegations taken seriously by NMJC, and to have the incidents investigated and properly resolved through these procedures. Please consider that delays may cause limitations on access to evidence, or present issues with respect to the status of the parties.

## **21. Federal Timely Warning Obligations**

Parties reporting sexual assault, domestic violence, dating violence, and/or stalking should be aware that under the Clery Act, NMJC must issue timely warnings for incidents reported to them that pose a serious or continuing threat of bodily harm or danger to members of the campus community.

NMJC will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

## **22. False Allegations and Evidence**

Deliberately false and/or malicious accusations under this policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a policy violation determination.

Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence, or deliberately misleading an official conducting an investigation can be subject to discipline under NMJC policy.

## **23. Amnesty for Complainants and Witnesses**

The NMJC community encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to report to NMJC officials or participate in grievance processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

It is in the best interests of the NMJC community that Complainants choose to report misconduct to NMJC officials, that witnesses come forward to share what they know, and that all parties be forthcoming during the process.

To encourage reporting and participation in the process, NMJC maintains a policy of offering parties and witnesses amnesty from minor policy violations – such as underage consumption of alcohol or the use of illicit drugs – related to the incident.

Amnesty does not apply to more serious allegations such as physical abuse of another or illicit drug distribution. The decision not to offer amnesty is based on neither sex nor gender, but on the fact that collateral misconduct is typically addressed for all students within a progressive discipline system, and the rationale for amnesty – the incentive to report serious misconduct – is rarely applicable to Respondent with respect to a Complainant.

**Students:** Sometimes, students are hesitant to assist others for fear that they may get in trouble themselves (for example, an underage student who has been drinking or using marijuana might hesitate to help take an individual who has experienced sexual assault to Campus Security and Safety).

NMJC maintains a policy of amnesty for students who offer help to others in need. Although policy violations cannot be overlooked, NMJC may provide purely educational options with no official disciplinary finding, rather than punitive sanctions, to those who offer their assistance to others in need.

## **24. Federal Statistical Reporting Obligations**

Certain campus officials – those deemed Campus Security Authorities – have a duty to report the following for federal statistical reporting purposes (Clery Act):

- a) All “primary crimes,” which include homicide, sexual assault, robbery, aggravated assault, burglary, motor vehicle theft, and arson;

- b) Hate crimes, which include any bias-motivated primary crime as well as any bias motivated larceny or theft, simple assault, intimidation, or destruction/damage/vandalism of property;
- c) VAWA-based crimes, which include sexual assault, domestic violence, dating violence, and stalking; and
- d) Arrests and referrals for disciplinary action for weapons-related law violations, liquor-related law violations, and drug abuse-related law violations.

All personally identifiable information is kept private, but statistical information must be shared with Campus Safety and Security regarding the type of incident and its general location (on or off-campus or in the surrounding area, but no addresses are given) for publication in the Annual Security Report and daily campus crime log.

Campus Security Authorities include: student affairs/student conduct staff, Campus Security and Safety, local police, coaches, athletic directors, residence life staff, student activities staff, human resources staff, advisors to student organizations, and any other official with significant responsibility for student and campus activities.

## **25. Preservation of Evidence**

The preservation of evidence in incidents of sexual assault is critical to potential criminal prosecution and to obtaining restraining orders, and particularly time-sensitive. NMJC will inform the Complainant of the importance of preserving evidence by taking the following actions:

1. Seek forensic medical assistance at an appropriate medical facility, ideally within 120 hours of the incident (sooner is better)
2. Avoid showering, bathing, washing hands or face, or douching, if possible, but evidence may still be collected even if you do.
3. Try not to urinate.
4. If oral sexual contact took place, refrain from smoking, eating, drinking, or brushing teeth.
5. If clothes are changed, place soiled clothes in a paper bag (plastic destroys evidence) or secure evidence container available from Campus Security and Safety.
6. Seeking medical treatment can be essential even if it is not for the purposes of collecting forensic evidence.

During the initial meeting between the Complainant and the Title IX Coordinator, the importance of taking these actions will be reiterated, if timely.

## **RESOLUTION PROCESS FOR ALLEGED VIOLATIONS OF THE POLICY ON EQUAL OPPORTUNITY, HARASSMENT, AND NONDISCRIMINATION**

### **1. Overview**

NMJC will act on any formal or informal notice/complaint of violation of the policy on Equal Opportunity, Harassment, and Nondiscrimination (“the Policy”) that is received by the Title IX Coordinator or any other Official with Authority by applying these procedures.

The procedures below apply to all allegations of harassment or discrimination on the basis of protected class status involving students, staff, administrators, or faculty members. A set of technical dismissal

requirements within the Title IX regulations may apply as described below, but when a technical dismissal under the Title IX allegations is required, any remaining allegations will proceed using these same grievance procedures, clarifying which policies above are applicable. Although the effect of the Title IX regulations can be confusing, these grievance procedures apply to all policies above.

The procedures below may be used to address collateral misconduct arising from the investigation of or occurring in conjunction with reported misconduct (e.g., vandalism, physical abuse of another). All other allegations of misconduct unrelated to incidents covered by the Policy will be addressed through procedures described in the student, faculty, and/or employee handbooks.

## **2. Notice/Complaint**

Upon receipt of a complaint or notice to the Title IX Coordinator of an alleged violation of the Policy, the Title IX Coordinator initiates a prompt initial assessment to determine the next steps NMJC needs to take.

The Title IX Coordinator will initiate at least one of three responses:

- 1) Offering supportive measures because the Complainant does not want to file a formal complaint; and/or
- 2) An informal resolution (upon submission of a formal complaint); and/or
- 3) A Formal Grievance Process including an investigation and a hearing (upon submission of a formal complaint).

NMJC uses the Formal Grievance Process to determine whether or not the Policy has been violated. If so, NMJC will promptly implement effective remedies designed to ensure that it is not deliberately indifferent to harassment or discrimination, their potential recurrence, or their effects.

## **3. Initial Assessment**

Following receipt of notice or a complaint of an alleged violation of this Policy, the Title IX Coordinator (or if circumstances require the President of NMJC will designate another person to oversee the process should an allegation be made about the Title IX Coordinator, or if the Title IX Coordinator is otherwise unavailable or unable to fulfill their duties) engages in an initial assessment, typically within one to five business days. The steps in an initial assessment can include:

- If notice is given, the Title IX Coordinator seeks to determine if the person impacted wishes to make a formal complaint, and will assist them to do so, if desired.
  - If they do not wish to do so, the Title IX Coordinator determines whether to initiate a complaint because a violence risk assessment indicates a compelling threat to health and/or safety.
- If a formal complaint is received, the Title IX Coordinator assesses its sufficiency and works with the Complainant to make sure it is correctly completed.
- The Title IX Coordinator reaches out to the Complainant to offer supportive measures.
- The Title IX Coordinator works with the Complainant to ensure they are aware of the right to have an Advisor.



- The Title IX Coordinator works with the Complainant to determine whether the Complainant prefers a supportive and remedial response, an informal resolution option, or a formal investigation and grievance process.
  - If a supportive and remedial response is preferred, the Title IX Coordinator works with the Complainant to identify their wishes, assesses the request, and implements accordingly. No Formal Grievance Process is initiated, though the Complainant can elect to initiate one later, if desired.
  - If an informal resolution option is preferred, the Title IX Coordinator assesses whether the complaint is suitable for informal resolution, and may seek to determine if the Respondent is also willing to engage in informal resolution.
  - If a Formal Grievance Process is preferred, the Title IX Coordinator determines if the misconduct alleged falls within the scope of Title IX:
    - If it does, the Title IX Coordinator will initiate the formal investigation and grievance process, directing the investigation to address:
      - an incident, and/or
      - a pattern of alleged misconduct, and/or
      - a culture/climate issue, based on the nature of the complaint.
    - If it does not, the Title IX Coordinator determines that Title IX does not apply (and will “dismiss” that aspect of the complaint, if any), assesses which policies may apply, which resolution process is applicable, and will refer the matter accordingly. Please note that dismissing a complaint under Title IX is solely a procedural requirement under Title IX, and does not limit the Recipient’s authority to address a complaint with an appropriate process and remedies.

**a. Violence Risk Assessment**

In many cases, the Title IX Coordinator may determine that a Violence Risk Assessment (VRA) should be conducted by the CARE team as part of the initial assessment. A VRA can aid in ten critical and/or required determinations, including:

- Emergency removal of a Respondent on the basis of immediate threat to physical health/safety;
- Whether the Title IX Coordinator should pursue/sign a formal complaint absent a willing/able Complainant;
- Whether to put the investigation on the footing of incident and/or pattern and/or climate;
- To help identify potential predatory conduct;
- To help assess/identify grooming behaviors;
- Whether it is reasonable to try to resolve a complaint through informal resolution, and what modality may be most successful;
- Whether to permit a voluntary withdrawal by the Respondent;
- Whether to impose transcript notation or communicate with a transfer recipient about a Respondent;
- Assessment of appropriate sanctions/remedies (to be applied post-hearing); and/or
- Whether a Clery Act Timely Warning/Trespass is needed.

Threat assessment is the process of evaluating the actionability of violence by an individual against another person or group following the issuance of a direct or conditional threat. A VRA is a broader term

used to assess any potential violence or danger, regardless of the presence of a vague, conditional, or direct threat.

VRAs require specific training and are typically conducted by psychologists, clinical counselors, social workers, case managers, law enforcement officers, student conduct officers, or other CARE team. A VRA authorized by the Title IX Coordinator should occur in collaboration with the CARE team. Where a VRA is required by the Title IX Coordinator, a Respondent refusing to cooperate may result in a charge of failure to comply within the appropriate student or employee conduct process.

A VRA is not an evaluation for an involuntary behavioral health hospitalization nor is it a psychological or mental health assessment. A VRA assesses the risk of actionable violence, often with a focus on targeted/predatory escalations, and is supported by research from the fields of law enforcement, criminology, human resources, and psychology.

**b. Dismissal (Mandatory and Discretionary)**

NMJC must dismiss a formal complaint or any allegations therein if, at any time during the investigation or hearing, it is determined that:

- 1) The conduct alleged in the formal complaint would not constitute sexual harassment as defined above, even if proved; and/or
- 2) The conduct did not occur in an educational program or activity controlled by NMJC (including buildings or property controlled by recognized student organizations), and/or NMJC does not have control of the Respondent; and/or
- 3) The conduct did not occur against a person in the United States; and/or
- 4) At the time of filing a formal complaint, a complainant is not participating in or attempting to participate in the education program or activity of NMJC.

NMJC may dismiss a formal complaint or any allegations therein if, at any time during the investigation or hearing:

- 1) A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein; or
- 2) The Respondent is no longer enrolled in or employed by the recipient; or
- 3) Specific circumstances prevent NMJC from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon any dismissal, NMJC will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties.

This dismissal decision is appealable by any party under the procedures for appeal below. The decision not to dismiss is also appealable by any party claiming that a dismissal is required or appropriate. A Complainant who decides to withdraw a complaint may later request to reinstate it or refile it.

#### **4. Counterclaims**

NMJC is obligated to ensure that the grievance process is not abused for retaliatory purposes. NMJC permits the filing of counterclaims but uses an initial assessment, described above, to assess whether the allegations in the counterclaim are made in good faith. Counterclaims by a Respondent may be made in good faith, but are, on occasion, made for purposes of retaliation, instead. Counterclaims made with retaliatory intent will not be permitted.

Counterclaims determined to have been reported in good faith will be processed using the grievance procedures below. Investigation of such claims may take place after resolution of the underlying initial allegation, in which case a delay may occur.

Counterclaims may also be resolved through the same investigation as the underlying allegation, at the discretion of the Title IX Coordinator. When counterclaims are not made in good faith, they will be considered retaliatory and may constitute a violation of this policy.

#### **5. Right to an Advisor**

The parties may each have an Advisor of their choice present with them for all meetings, interviews, and hearings within the resolution process, if they so choose. The parties may select whoever they wish to serve as their Advisor as long as the Advisor is eligible and available.

Choosing an Advisor who is also a witness in the process creates potential for bias and conflict-of-interest. A party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the hearing Decision-maker.

NMJC may permit parties to have more than one Advisor upon special request to the Title IX Coordinator. The decision to grant this request is at the sole discretion of the Title IX Coordinator and will be granted equitably to all parties.

##### **a. Who Can Serve as an Advisor**

The Advisor may be a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with them throughout the resolution process. The parties may choose Advisors from inside or outside of NMJC community.

The Title IX Coordinator will also offer to assign a trained Advisor for any party if the party so chooses. If the parties choose an Advisor from the pool available from NMJC, the Advisor will be trained by NMJC and be familiar with NMJC's resolution process.

If the parties choose an Advisor from outside the pool of those identified by NMJC, the Advisor may not have been trained by NMJC and may not be familiar with NMJC policies and procedures.

Parties also have the right to choose not to have an Advisor in the initial stages of the resolution process, prior to a hearing.

##### **b. Advisor's Role in Meetings and Interviews**

The parties may be accompanied by their Advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors should help the parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith.

NMJC cannot guarantee equal Advisory rights, meaning that if one party selects an Advisor who is an attorney, but the other party does not or cannot afford an attorney, NMJC is not obligated to provide an attorney.

#### **c. Advisors in Hearings/NMJC-Appointed Advisor**

Under U.S. Department of Education regulations under Title IX, a form of indirect questioning is required during the hearing but must be conducted by the parties' Advisors. The parties are not permitted to directly question each other or any witnesses. If a party does not have an Advisor for a hearing, NMJC will appoint a trained Advisor for the limited purpose of conducting any questioning of the other party and witnesses.

A party may reject this appointment and choose their own Advisor, but they may not proceed without an Advisor. If the party's Advisor will not conduct questioning, NMJC will appoint an Advisor who will do so, regardless of the participation or non-participation of the advised party in the hearing itself. Extensive questioning of the parties and witnesses may also be conducted by the Decision-maker during the hearing.

#### **d. Pre-Interview Meetings**

Advisors may request to meet with the administrative officials conducting interviews/meetings in advance of these interviews or meetings. This pre-meeting allows Advisors to clarify and understand their role and NMJC's policies and procedures.

#### **e. Advisor Violations of NMJC Policy**

All Advisors are subject to the same NMJC policies and procedures, whether they are attorneys or not. Advisors are expected to advise their advisees without disrupting proceedings. Advisors should not address NMJC officials in a meeting or interview unless invited to (e.g., asking procedural questions). The Advisor may not make a presentation or represent their advisee during any meeting or proceeding and may not speak on behalf of the advisee to the Investigator(s) or other Decision-maker except during a hearing proceeding, during cross-examination.

The parties are expected to ask and respond to questions on their own behalf throughout the investigation phase of the resolution process. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any resolution process meeting or interview. For longer or more involved discussions, the parties and their Advisors should ask for breaks to allow for private consultation.

Any Advisor who oversteps their role as defined by this policy will be warned only once. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting will be ended, or other appropriate measures implemented. Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.

#### **f. Sharing Information with the Advisor**

NMJC expects that the parties may wish to have NMJC share documentation and evidence related to the allegations with their Advisors. Parties may share this information directly with their Advisor or other individuals if they wish. Doing so may help the parties participate more meaningfully in the resolution process.

NMJC also provides a consent form that authorizes NMJC to share such information directly with their Advisor. The parties must either complete and submit this form to the Title IX Coordinator or provide similar documentation demonstrating consent to a release of information to the Advisor before NMJC is able to share records with an Advisor.

#### **g. Privacy of Records Shared with Advisor**

Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by NMJC. NMJC may seek to restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by NMJC's privacy expectations.

#### **h. Expectations of an Advisor**

NMJC generally expects an Advisor to adjust their schedule to allow them to attend NMJC meetings when planned, but may change scheduled meetings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay.

NMJC may also make reasonable provisions to allow an Advisor who cannot attend in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.

#### **i. Expectations of the Parties with Respect to Advisors**

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. The parties are expected to inform the Investigator(s) of the identity of their Advisor at least two (2) business days before the date of their first meeting with Investigators (or as soon as possible if a more expeditious meeting is necessary or desired).

The parties are expected to provide timely notice to the Title IX Coordinator if they change Advisors at any time. It is assumed that if a party changes Advisors, consent to share information with the previous Advisor is terminated, and a release for the new Advisor must be secured. Parties are expected to inform the Title IX Coordinator of the identity of their hearing Advisor at least two (2) business days before the hearing.

### **6. Resolution Processes**

Resolution proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accordance with NMJC policy. Although there is an expectation of privacy around what Investigators share with parties during interviews, the parties

have discretion to share their own knowledge and evidence with others if they so choose, with the exception of information the parties agree not to disclose related to Informal Resolution, discussed below. NMJC encourages parties to discuss any sharing of information with their Advisors before doing so.

#### **a. Informal Resolution**

Informal Resolution can include three different approaches:

- When the Title IX Coordinator can resolve the matter informally by providing supportive measures (only) to remedy the situation.
- When the parties agree to resolve the matter through an alternate resolution mechanism as described below, usually before a formal investigation takes place; see discussion in b., below.
- When the Respondent accepts responsibility for violating policy, and desires to accept a sanction and end the resolution process (similar to above, but usually occurs post-investigation); see discussion in c., below.

To initiate Informal Resolution, a Complainant needs to submit a formal complaint, as defined above. A Respondent who wishes to initiate Informal Resolution should contact the Title IX Coordinator.

It is not necessary to pursue Informal Resolution first in order to pursue a Formal Grievance Process, and any party participating in Informal Resolution can stop the process at any time and begin or resume the Formal Grievance Process.

Prior to implementing Informal Resolution, NMJC will provide the parties with written notice of the reported misconduct and any sanctions or measures that may result from participating in such a process, including information regarding any records that will be maintained or shared by NMJC.

NMJC will obtain voluntary, written confirmation that all parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the parties to participate in Informal Resolution.

#### **b. Alternate Resolution Mechanism**

Alternate Resolution is an informal mechanism by which the parties reach a mutually agreed upon resolution of an allegation. All parties must consent to the use of an Alternate Resolution mechanism.

The Title IX Coordinator may look to the following factors to assess whether Alternate Resolution is appropriate, or which form of Alternate Resolution may be most successful for the parties:

- The parties' amenability to Alternate Resolution;
- Likelihood of potential resolution, considering any power dynamics between the parties;
- The parties' motivation to participate;
- Civility of the parties;
- Results of a violence risk assessment/ongoing risk analysis;
- Disciplinary history;
- Whether an emergency removal is needed;
- Skill of the Alternate Resolution facilitator with this type of allegation;

- Complaint complexity;
- Emotional investment/capability of the parties;
- Rationality of the parties;
- Goals of the parties;
- Adequate resources to invest in Alternate Resolution (time, staff, etc.)

The ultimate determination of whether Alternate Resolution is available or successful is to be made by the Title IX Coordinator. The Title IX Coordinator maintains records of any resolution that is reached, and failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions. Results of complaints resolved by Informal Resolution or Alternate Resolution are not appealable.

### **c. Respondent Accepts Responsibility for Alleged Violations**

The Respondent may accept responsibility for all or part of the alleged policy violations at any point during the resolution process. If the Respondent indicates an intent to accept responsibility for all of the alleged misconduct, the formal process will be paused, and the Title IX Coordinator will determine whether Informal Resolution can be used according to the criteria above.

If Informal Resolution is applicable, the Title IX Coordinator will determine whether all parties and NMJC are able to agree on responsibility, sanctions, and/or remedies. If so, the Title IX Coordinator implements the accepted finding that the Respondent is in violation of NMJC policy and implements agreed-upon sanctions and/or remedies, in coordination with other appropriate administrator(s), as necessary.

This result is not subject to appeal once all parties indicate their written assent to all agreed upon terms of resolution. When the parties cannot agree on all terms of resolution, the Formal Grievance Process will resume at the same point where it was paused.

When a resolution is accomplished, the appropriate sanction or responsive actions are promptly implemented in order to effectively stop the harassment or discrimination, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

### **d. Negotiated Resolution**

The Title IX Coordinator, with the consent of the parties, may negotiate and implement an agreement to resolve the allegations that satisfies all parties and NMJC. Negotiated Resolutions are not appealable.

## **7. Grievance Process Pool**

The Formal Grievance Process relies on a pool of administrators (“the Pool”) to carry out the process employees. The Title IX Coordinator, in consultation with the President, appoints the Pool, which acts with independence and impartiality. Although members of the Pool are typically trained in a variety of skill sets and can rotate amongst the different roles in the process in different cases, NMJC can also designate permanent roles for individuals in the Pool, using others as substitutes or to provide greater depth of experience when necessary. This process of role assignment may be the result of particular skills, aptitudes, or talents identified in members of the Pool that make them best suited to particular roles. The Pool members will receive annual training in the process.

## **8. Formal Grievance Process: Notice of Investigation and Allegations**

The Title IX Coordinator will provide written notice of the investigation and allegations (the “NOIA”) to the Respondent upon commencement of the Formal Grievance Process. This facilitates the Respondent’s ability to prepare for the interview and to identify and choose an Advisor to accompany them. The NOIA is also copied to the Complainant, who is to be given advance notice of when the NOIA will be delivered to the Respondent.

The NOIA will include:

- A meaningful summary of all of allegations,
- The identity of the involved parties (if known),
- The precise misconduct being alleged,
- The date and location of the alleged incident(s) (if known),
- The specific policies implicated,
- A description of the applicable procedures,
- A statement of the potential sanctions/responsive actions that could result,
- A statement that NMJC presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination,
- A statement that determinations of responsibility are made at the conclusion of the process and that the parties will be given an opportunity to inspect and review all directly related and/or relevant evidence obtained during the review and comment period,
- A statement about NMJC’s policy on retaliation,
- Information about the privacy of the process,
- Information on the need for each party to have an Advisor of their choosing and suggestions for ways to identify an Advisor,
- A statement informing the parties that NMJC’s Policy prohibits knowingly making false statements, including knowingly submitting false information during the resolution process,
- Detail on how the party may request disability accommodations during the interview process,
- A link to NMJC’s VAWA Brochure,
- The name(s) of the Investigator(s), along with a process to identify, in advance of the interview process, to the Title IX Coordinator any conflict of interest that the Investigator(s) may have, and
- An instruction to preserve any evidence that is directly related to the allegations.

Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various charges.

Notice will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address(es) of the parties as indicated in official NMJC records, or emailed to the parties’ NMJC-issued email or designated accounts. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

## **9. Resolution Timeline**

NMJC will make a good faith effort to complete the resolution process within a sixty-to-ninety (60-90) business day time period, including appeal, which can be extended as necessary for appropriate cause by the Title IX Coordinator, who will provide notice and rationale for any extensions or delays to the



parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process.

### **10. Appointment of Investigators**

Once the decision to commence a formal investigation is made, the Title IX Coordinator appoints Pool members to conduct the investigation, usually within two (2) business days of determining that an investigation should proceed.

### **11. Ensuring Impartiality**

Any individual materially involved in the administration of the resolution process including the Title IX Coordinator, Investigator(s), and Decision-maker may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

The Title IX Coordinator will vet the assigned Investigator(s) to ensure impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. The parties may, at any time during the resolution process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another Pool member will be assigned and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX Coordinator, concerns should be raised with the President of NMJC.

The Formal Grievance Process involves an objective evaluation of all relevant evidence obtained, including evidence that supports that the Respondent engaged in a policy violation and evidence that supports that the Respondent did not engage in a policy violation. Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness.

NMJC operates with the presumption that the Respondent is not responsible for the reported misconduct unless and until the Respondent is determined to be responsible for a policy violation by the applicable standard of proof.

### **12. Investigation Timeline**

Investigations are completed expeditiously, normally within thirty (30) business days, though some investigations may take weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc.

NMJC will make a good faith effort to complete investigations as promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the investigation.

### **13. Delays in the Investigation Process and Interactions with Law Enforcement**

NMJC may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include, but are not limited to: a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of parties and/or witnesses, and/or accommodations for disabilities or health conditions.

NMJC will communicate in writing the anticipated duration of the delay and reason to the parties, and provide the parties with status updates if necessary. NMJC will promptly resume its investigation and resolution process as soon as feasible. During such a delay, NMJC will implement supportive measures as deemed appropriate.

NMJC action(s) or processes are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

#### **14. Steps in the Investigation Process**

All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all relevant parties and witnesses; obtaining available, relevant evidence; and identifying sources of expert information, as necessary.

All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence and expert witnesses, and to fully review and respond to all evidence on the record.

The Investigator(s) typically take(s) the following steps, if not already completed (not necessarily in this order):

- Determine the identity and contact information of the Complainant
- In coordination with campus partners (e.g., the Title IX Coordinator), initiate or assist with any necessary supportive measures
- Identify all policies implicated by the alleged misconduct and notify the Complainant and Respondent of all of the specific policies implicated
- Assist the Title IX Coordinator with conducting a prompt initial assessment to determine if the allegations indicate a potential policy violation
- Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for all witnesses and the parties
- Meet with the Complainant to finalize their interview/statement, if necessary
- Prepare the initial Notice of Investigation and Allegation (NOIA). The NOIA may be amended with any additional or dismissed allegations
  - Notice should inform the parties of their right to have the assistance of an Advisor, who could be a member of the Pool or an Advisor of their choosing present for all meetings attended by the party
- Provide each interviewed party and witness an opportunity to review and verify the Investigator's summary notes (or transcript) of the relevant evidence/testimony from their respective interviews and meetings
- Make good faith efforts to notify the parties of any meeting or interview involving the other party, in advance when possible
- When participation of a party is expected, provide that party with written notice of the date, time, and location of the meeting, as well as the expected participants and purpose
- Interview all available, relevant witnesses and conduct follow-up interviews as necessary

- Allow each party the opportunity to suggest witnesses and questions they wish the Investigator(s) to ask of the other party and witnesses, and document in the report which questions were asked, with a rationale for any changes or omissions
- Complete the investigation promptly and without unreasonable deviation from the intended timeline
- Provide regular status updates to the parties throughout the investigation
- Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) with a list of witnesses whose information will be used to render a finding
- Write a comprehensive investigation report fully summarizing the investigation, all witness interviews, and addressing all relevant evidence. Appendices including relevant physical or documentary evidence will be included
- Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) a secured electronic or hard copy of the draft investigation report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct, including evidence upon which NMJC does not intend to rely in reaching a determination, for a ten (10) business day review and comment period so that each party may meaningfully respond to the evidence. The parties may elect to waive the full ten days. Each copy of the materials shared will be watermarked on each page with the role of the person receiving it (e.g., Complainant, Respondent, Complainant's Advisor, Respondent's Advisor).
- The Investigator(s) may elect to respond in writing in the investigation report to the parties' submitted responses and/or to share the responses between the parties for additional responses
- The Investigator(s) will incorporate relevant elements of the parties' written responses into the final investigation report, include any additional relevant evidence, make any necessary revisions, and finalize the report. The Investigator(s) should document all rationales for any changes made after the review and comment period
- The Investigator(s) shares the report with the Title IX Coordinator and/or legal counsel for their review and feedback
- The Investigator will incorporate any relevant feedback, and the final report is then shared with all parties and their Advisors through secure electronic transmission or hard copy at least ten (10) business days prior to a hearing. The parties are also provided with a file of any directly related evidence that was not included in the report

### **15. Role and Participation of Witnesses in the Investigation**

Witnesses (as distinguished from the parties) who are employees of NMJC are expected to cooperate with and participate in NMJC's investigation and resolution process. Failure of such witnesses to cooperate with and/or participate in the investigation or resolution process constitutes a violation of policy and may warrant discipline.

Although in-person interviews for parties and all potential witnesses are ideal, circumstances (e.g., study abroad, summer break) may require individuals to be interviewed remotely. Skype, Zoom, FaceTime, WebEx, or similar technologies may be used for interviews if the Investigator(s) determine that timeliness or efficiency dictate a need for remote interviewing. NMJC will take appropriate steps to reasonably ensure the security/privacy of remote interviews.

Witnesses may also provide written statements in lieu of interviews or choose to respond to written questions, if deemed appropriate by the Investigator(s), though not preferred. If a witness submits a written statement but does not intend to be and is not present for cross examination at a hearing, their written statement may not be used as evidence.

#### **16. Recording of Interviews**

No unauthorized audio or video recording of any kind is permitted during investigation meetings. If Investigator(s) elect to audio and/or video record interviews, all involved parties must be made aware of audio and/or video recording.

#### **17. Evidentiary Considerations in the Investigation**

The investigation does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Within the boundaries stated above, the investigation can consider character evidence generally, if offered, but that evidence is unlikely to be relevant unless it is fact evidence or relates to a pattern of conduct.

#### **18. Referral for Hearing**

Provided that the complaint is not resolved through Informal Resolution, once the final investigation report is shared with the parties, the Title IX Coordinator will refer the matter for a hearing.

The hearing cannot be less than ten (10) business days from the conclusion of the investigation –when the final investigation report is transmitted to the parties and the Decision-maker—unless all parties and the Decision-maker agree to an expedited timeline.

The Title IX Coordinator will select an appropriate Decision-maker depending on whether the Respondent is an employee or a student. Allegations involving student-employees in the context of their employment will be directed to the appropriate Decision-maker depending on the context and nature of the alleged misconduct.

#### **19. Hearing Decision-maker Composition**

NMJC will designate a single Decision-maker.

The Decision-maker will not have had any previous involvement with the investigation.

Those who have served as Investigators will be witnesses in the hearing and therefore may not serve as Decision-maker. Those who are serving as Advisors for any party may not serve as Decision-maker in that matter.

The Title IX Coordinator may not serve as a Decision-maker in the matter but may serve as an

administrative facilitator of the hearing if their previous role(s) in the matter do not create a conflict of interest. Otherwise, a designee may fulfill this role. The hearing will convene at a time determined by the Decision-maker or designee.

## **20. Evidentiary Considerations in the Hearing**

Any evidence that the Decision-maker determine(s) is relevant and credible may be considered. The hearing does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Within the boundaries stated above, the hearing can consider character evidence generally, if offered, but that evidence is unlikely to be relevant unless it is fact evidence or relates to a pattern of conduct.

Previous disciplinary action of any kind involving the Respondent may be considered in determining an appropriate sanction upon a determination of responsibility, assuming NMJC uses a progressive discipline system. This information is only considered at the sanction stage of the process and is not shared until then.

The parties may each submit a written impact statement prior to the hearing for the consideration of the Decision-maker at the sanction stage of the process when a determination of responsibility is reached.

After post-hearing deliberation, the Decision-maker renders a determination based on the preponderance of the evidence.

## **21. Notice of Hearing**

No less than ten (10) business days prior to the hearing, the Title IX Coordinator or the Decision-maker will send notice of the hearing to the parties. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The notice will contain:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions/responsive actions that could result.
- The time, date, and location of the hearing and a reminder that attendance is mandatory, superseding all other campus activities.
- Any technology that will be used to facilitate the hearing.
- Information about the option for the live hearing to occur with the parties located in separate rooms using technology that enables the Decision-maker and parties to see and hear a party or witness answering questions. Such a request must be raised with the Title IX Coordinator at least five (5) business days prior to the hearing.
- A list of all those who will attend the hearing, along with an invitation to object to any Decision-

maker on the basis of demonstrated bias. This must be raised with the Title IX Coordinator at least two (2) business days prior to the hearing.

- Information on how the hearing will be recorded and on access to the recording for the parties after the hearing.
- A statement that if any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence, and the party's or witness's testimony and any statements given prior to the hearing will not be considered by the Decision-maker. For compelling reasons, the Decision-maker may reschedule the hearing.
- Notification that the parties may have the assistance of an Advisor of their choosing at the hearing and will be required to have one present for any questions they may desire to ask. The party must notify the Title IX Coordinator if they do not have an Advisor, and NMJC will appoint one. Each party must have an Advisor present. There are no exceptions.
- A copy of all the materials provided to the Decision-maker about the matter, unless they have been provided already.
- An invitation to each party to submit to the Decision-maker an impact statement pre-hearing that the Decision-maker will review during any sanction determination.
- An invitation to contact the Title IX Coordinator to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least seven (7) business days prior to the hearing.
- Whether parties cannot bring mobile phones/devices into the hearing.

Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to this Policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by NMJC and remain within the 60-90 business day goal for resolution.

## **22. Alternative Hearing Participation Options**

If a party or parties prefer not to attend or cannot attend the hearing in person, the party should request alternative arrangements from the Title IX Coordinator or the Decision-maker at least five (5) business days prior to the hearing.

The Title IX Coordinator or the Decision-maker can arrange to use technology to allow remote testimony without compromising the fairness of the hearing. Remote options may also be needed for witnesses who cannot appear in person. Any witness who cannot attend in person should let the Title IX Coordinator or the Decision-maker know at least five (5) business days prior to the hearing so that appropriate arrangements can be made.

## **23. Pre-Hearing Preparation**

The Decision-maker or hearing facilitator after any necessary consultation with the parties, Investigator(s) and/or Title IX Coordinator, will provide the names of persons who will be participating in the hearing, all pertinent documentary evidence, and the final investigation report to the parties at least ten (10) business days prior to the hearing.

Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator(s) or have proffered a written statement or answered written questions, unless all parties and the Decision-maker assent to the witness's participation in the hearing. The same holds for any

evidence that is first offered at the hearing. If the parties and Decision-maker do not assent to the admission of evidence newly offered at the hearing, the Decision-maker may delay the hearing and instruct that the investigation needs to be re-opened to consider that evidence.

The parties will be given a list of the names of the Decision-maker at least five (5) business days in advance of the hearing. All objections to any Decision-maker must be raised in writing, detailing the rationale for the objection, and must be submitted to the Title IX Coordinator as soon as possible and no later than one day prior to the hearing. Decision-makers will only be removed if the Title IX Coordinator concludes that their bias or conflict of interest precludes an impartial hearing of the allegation(s).

The Title IX Coordinator will give the Decision-maker a list of the names of all parties, witnesses, and Advisors at least five (5) business days in advance of the hearing. Any Decision-maker who cannot make an objective determination must recuse themselves from the proceedings when notified of the identity of the parties, witnesses, and Advisors in advance of the hearing. If a Decision-maker is unsure of whether a bias or conflict of interest exists, they must raise the concern to the Title IX Coordinator as soon as possible.

During the ten (10) business day period prior to the hearing, the parties have the opportunity for continued review and comment on the final investigation report and available evidence. That review and comment can be shared with the Decision-maker at the pre-hearing meeting or at the hearing and will be exchanged between each party by the Decision-maker.

#### **24. Pre-Hearing Meetings**

The Decision-maker may convene a pre-hearing meeting(s) with the parties and/or their Advisors to invite them to submit the questions or topics they (the parties and/or their Advisors) wish to ask or discuss at the hearing, so that the Decision-maker can rule on their relevance ahead of time to avoid any improper evidentiary introduction in the hearing or provide recommendations for more appropriate phrasing. However, this advance review opportunity does not preclude the Advisors from asking a question for the first time at the hearing or from asking for a reconsideration based on any new information or testimony offered at the hearing. The Decision-maker must document and share with each party their rationale for any exclusion or inclusion at a pre-hearing meeting.

The Decision-maker, **only** with full agreement of the parties, may decide in advance of the hearing that certain witnesses do not need to be present if their testimony can be adequately summarized by the Investigator(s) in the investigation report or during the hearing.

At each pre-hearing meeting with a party and their Advisor, the Decision-maker will consider arguments that evidence identified in the final investigation report as relevant is, in fact, not relevant. Similarly, evidence identified as directly related but not relevant by the Investigator(s) may be argued to be relevant. The Decision-maker may rule on these arguments pre-hearing and will exchange those rulings between the parties prior to the hearing to assist in preparation for the hearing. The Decision-maker may consult with legal counsel and/or the Title IX Coordinator, or ask either or both to attend pre-hearing meetings.

The pre-hearing meeting(s) will not be recorded.

## **25. Hearing Procedures**

At the hearing, the Decision-maker has the authority to hear and make determinations on all allegations of discrimination, harassment, and/or retaliation and may also hear and make determinations on any additional alleged policy violations that have occurred in concert with the discrimination, harassment, and/or retaliation, even though those collateral allegations may not specifically fall within the policy on Equal Opportunity, Harassment, and Nondiscrimination.

Participants at the hearing will include the Decision-maker, the Investigator(s) who conducted the investigation, the parties (or two (2) organizational representatives when an organization is the Respondent), Advisors to the parties, any called witnesses, the Title IX Coordinator and anyone providing authorized accommodations or assistive services.

The Decision-maker will answer all questions of procedure. Anyone appearing at the hearing to provide information will respond to questions on their own behalf.

The Decision-maker will allow witnesses who have relevant information to appear at a portion of the hearing in order to respond to specific questions from the Decision-maker and the parties and the witnesses will then be excused.

## **26. Joint Hearings**

In hearings involving more than one Respondent or in which two (2) or more Complainants have accused the same individual of substantially similar conduct, the default procedure will be to hear the allegations jointly.

However, the Title IX Coordinator may permit the investigation and/or hearings pertinent to each Respondent to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent with respect to each alleged policy violation.

## **27. The Order of the Hearing – Introductions and Explanation of Procedure**

The Decision-maker explains the procedures and introduces the participants. This may include a final opportunity for challenge or recusal of the Decision-maker on the basis of bias or conflict of interest. The Decision-maker will rule on any such challenge unless the Decision-maker is the individual who is the subject of the challenge, in which case the Title IX Coordinator will review and decide the challenge.

The Decision-maker then conducts the hearing according to the hearing script. At the hearing, recording, witness logistics, party logistics, curation of documents, separation of the parties, and other administrative elements of the hearing process are managed by a non-voting hearing facilitator appointed by the Title IX Coordinator. The hearing facilitator may attend to: logistics of rooms for various parties/witnesses as they wait; flow of parties/witnesses in and out of the hearing space; ensuring recording and/or virtual conferencing technology is working as intended; copying and distributing materials to participants, as appropriate, etc.



## **28. Investigator Presents the Final Investigation Report**

The Investigator(s) will then present a summary of the final investigation report, including items that are contested and those that are not, and will be subject to questioning by the Decision-maker and the parties (through their Advisors). The Investigator(s) will be present during the entire hearing process, but not during deliberations.

Neither the parties nor the Decision-maker should ask the Investigator(s) their opinions on credibility, recommended findings, or determinations, and the Investigators, Advisors, and parties will refrain from discussion of or questions about these assessments. If such information is introduced, the Decision-maker will direct that it be disregarded.

## **29. Testimony and Questioning**

Once the Investigator(s) present their report and are questioned, the parties and witnesses may provide relevant information in turn, beginning with the Complainant, and then in the order determined by the Decision-maker. The parties/witnesses will submit to questioning by the Decision-maker and then by the parties through their Advisors (“cross-examination”).

All questions are subject to a relevance determination by the Decision-maker. The Advisor, who will remain seated during questioning, will pose the proposed question orally, electronically, or in writing (orally is the default, but other means of submission may be permitted by the Decision-maker upon request if agreed to by all parties and the Decision-maker), the proceeding will pause to allow the Decision-maker to consider it (and state it if it has not been stated aloud), and the Decision-maker will determine whether the question will be permitted, disallowed, or rephrased.

The Decision-maker may invite explanations or persuasive statements regarding relevance with the Advisors, if the Decision-maker so chooses. The Decision-maker will then state their decision on the question for the record and advise the party/witness to whom the question was directed, accordingly. The Decision-maker will explain any decision to exclude a question as not relevant, or to reframe it for relevance.

The Decision-maker will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), or abusive. The Decision-maker has final say on all questions and determinations of relevance. The Decision-maker may consult with legal counsel on any questions of admissibility. The Decision-maker may ask Advisors to frame why a question is or is not relevant from their perspective but will not entertain argument from the Advisors on relevance once the Decision-maker has ruled on a question.

If the parties raise an issue of bias or conflict of interest of an Investigator or Decision-maker at the hearing, the Decision-maker may elect to address those issues, consult with legal counsel, and/or refer them to the Title IX Coordinator, and/or preserve them for appeal. If bias is not in issue at the hearing, the Decision-maker should not permit irrelevant questions that probe for bias.

## **30. Refusal to Submit to Cross-Examination and Inferences**

If a party or witness chooses not to submit to cross-examination at the hearing, either because they do not attend the meeting, or they attend but refuse to participate in questioning, then the Decision-maker

may not rely on any prior statement made by that party or witness at the hearing (including those contained in the investigation report) in the ultimate determination of responsibility. The Decision-maker must disregard that statement. Evidence provided that is something other than a statement by the party or witness may be considered.

Cross-examination is an all or nothing proposition, meaning that if any question is refused, no statements of that party or witness are admissible. Only if a party or witness is willing to submit to cross-examination, and answers all questions, will their statements prior to or at the hearing be fully admissible. If a party or witness chooses not to submit to cross-examination at the hearing, either because they do not attend the meeting, or they attend but refuse to participate in questioning, then the Decision-maker may not rely on any prior statement made by that party or witness at the hearing (including those contained in the investigation report) in the ultimate determination of responsibility. The Decision-maker must disregard all statements. Evidence provided that is something other than a statement by the party or witness may be considered.

Whether a party or witness does or does not answer questions from the Decision-maker, their statements will be admissible as long as they are willing to submit to cross-examination questions, even if they are not asked such questions. The Decision-maker may not draw any inference solely from a party's or witness's absence from the hearing or refusal to answer cross-examination or other questions.

If charges of policy violations other than sexual harassment are considered at the same hearing, the Decision-maker may consider all evidence it deems relevant, may rely on any relevant statement as long as the opportunity for cross-examination is afforded to all parties through their Advisors, and may draw reasonable inferences from any decision by any party or witness not to participate or respond to questions.

If a party's Advisor of choice refuses to comply with NMJC's established rules of decorum for the hearing, NMJC may require the party to use a different Advisor. If a NMJC-provided Advisor refuses to comply with the rules of decorum, NMJC may provide that party with a different Advisor to conduct cross-examination on behalf of that party.

### **31. Recording Hearings**

Hearings (but not deliberations) are recorded by NMJC for purposes of review in the event of an appeal. The parties may not record the proceedings and no other unauthorized recordings are permitted.

The Decision-maker, the parties, their Advisors, and appropriate administrators of NMJC will be permitted to listen to the recording in a controlled environment determined by the Title IX Coordinator. No person will be given or be allowed to make a copy of the recording without permission of the Title IX Coordinator.

### **32. Deliberation, Decision-making, and Standard of Proof**

The Decision-maker will deliberate in closed session to determine whether the Respondent is responsible or not responsible for the policy violation(s) in question. The preponderance of the evidence standard of proof is used.

When there is a finding of responsibility on one or more of the allegations, the Decision-maker may then consider the previously submitted party impact statements in determining appropriate sanction(s).

The Decision-maker will ensure that each of the parties has an opportunity to review any impact statement submitted by the other party(ies). The Decision-maker may – at their discretion – consider the statements, but they are not binding.

The Decision-maker will review the statements and any pertinent conduct history provided by the Dean of Students of NMJC and will recommend the appropriate sanction(s).

The Decision-maker will then prepare a written deliberation statement and deliver it to the Title IX Coordinator, detailing the determination, rationale, the evidence used in support of its determination, the evidence not relied upon in its determination, credibility assessments, and any recommendations.

This report is typically three (3) to five (5) pages in length and must be submitted to the Title IX Coordinator within two (2) business days of the end of deliberations, unless the Title IX Coordinator grants an extension. If an extension is granted, the Title IX Coordinator will notify the parties.

### **33. Notice of Outcome**

Using the deliberation statement, the Title IX Coordinator will work with the Decision-maker to prepare a Notice of Outcome. The Title IX Coordinator will then share the letter, including the final determination, rationale, and any applicable sanction(s) with the parties and their Advisors within 7 business days of receiving the Decision-makers deliberation statement.

The Notice of Outcome will then be shared with the parties simultaneously. Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official NMJC records, or emailed to the parties' NMJC-issued email or otherwise approved account. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The Notice of Outcome will articulate the specific policy(ies) reported to have been violated, including the relevant policy section, and will contain a description of the procedural steps taken by NMJC from the receipt of the misconduct report to the determination, including any and all notifications to the parties, interviews with parties and witnesses, site visits, methods used to obtain evidence, and hearings held.

The Notice of Outcome will specify the finding on each alleged policy violation; the findings of fact that support the determination; conclusions regarding the application of the relevant policy to the facts at issue; a statement of, and rationale for, the result of each allegation to the extent NMJC is permitted to share such information under state or federal law; any sanctions issued which NMJC is permitted to share according to state or federal law; and any remedies provided to the Complainant designed to ensure access to NMJC's educational or employment program or activity, to the extent NMJC is permitted to share such information under state or federal law (this detail is not typically shared with the Respondent unless the remedy directly relates to the Respondent).

The Notice of Outcome will also include information on when the results are considered by NMJC to be final, any changes that occur prior to finalization, and the relevant procedures and bases for any available appeal options.

#### **34. Statement of the Rights of the Parties.**

- The right to an equitable investigation and resolution of all credible allegations of prohibited harassment or discrimination made in good faith to NMJC officials.
- The right to timely written notice of all alleged violations, including the identity of the parties involved (if known), the precise misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated policies and procedures, and possible sanctions.
- The right to timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional Complainants, unsubstantiated allegations) and any attendant adjustments needed to clarify potentially implicated policy violations.
- The right to be informed in advance of any public release of information regarding the allegation(s) or underlying incident(s), whenever possible.
- The right not to have any personally identifiable information released to the public without consent provided, except to the extent permitted by law.
- The right to be treated with respect by NMJC officials.
- The right to have NMJC policies and procedures followed without material deviation.
- The right not to be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence.
- The right not to be discouraged by NMJC officials from reporting sexual harassment, discrimination, and/or retaliation to both on-campus and off-campus authorities.
- The right to be informed by NMJC officials of options to notify proper law enforcement authorities, including on-campus and local police, and the option(s) to be assisted by NMJC authorities in notifying such authorities, if the party so chooses. This also includes the right not to be pressured to report, as well.
- The right to have allegations of violations of this Policy responded to promptly and with sensitivity by NMJC Security and Safety and/or other NMJC officials.
- The right to be informed of available interim actions and supportive measures, such as counseling; advocacy; health care; student financial aid, visa, and immigration assistance; or other services, both on campus and in the community.
- The right to a NMJC-implemented no-contact order or a no-trespass order against a non-affiliated third party when a person has engaged in or threatens to engage in stalking, threatening, harassing, or other improper conduct.
- The right to be informed of available assistance in changing academic, living, and/or working situations after an alleged incident of discrimination, harassment, and/or retaliation, if such changes

are reasonably available. No formal report, or investigation, either campus or criminal, needs to occur before this option is available. Such actions may include, but are not limited to:

- Relocating an on-campus student's housing to a different on-campus location
  - Assistance from NMJC staff in completing the relocation
  - Changing an employee's work environment (e.g., reporting structure, office/workspace relocation)
  - Transportation accommodations
  - Visa/immigration assistance
  - Arranging to dissolve a housing contract and a pro-rated refund
  - Exam, paper, and/or assignment rescheduling or adjustment
  - Receiving an incomplete in, or a withdrawal from, a class (may be retroactive)
  - Transferring class sections
  - Temporary withdrawal/leave of absence (may be retroactive)
  - Campus safety escorts
  - Alternative course completion options.
- 
- The right to have NMJC maintain such actions for as long as necessary and for supportive measures to remain private, provided privacy does not impair NMJC's ability to provide the supportive measures.
  - The right to receive sufficiently advanced, written notice of any meeting or interview involving the other party, when possible.
  - The right to ask the Investigator(s) and Decision-maker to identify and question relevant witnesses, including expert witnesses.
  - The right to provide the Investigator(s)/Decision-maker with a list of questions that, if deemed relevant by the Investigator(s)/Decision-maker, may be asked of any party or witness.
  - The right to have inadmissible prior sexual history or irrelevant character evidence excluded by the decision-maker.
  - The right to know the relevant and directly related evidence obtained and to respond to that evidence.
  - The right to fair opportunity to provide the Investigator(s) with their account of the alleged misconduct and have that account be on the record.
  - The right to receive a copy of the investigation report, including all factual, policy, and/or credibility analyses performed, and all relevant and directly related evidence available and used to produce the investigation report, subject to the privacy limitations imposed by state and federal law, prior to the hearing, and the right to have at least ten (10) business days to review the report prior to the hearing.
  - The right to respond to the investigation report, including comments providing any additional relevant evidence after the opportunity to review the investigation report, and to have that response on the record.

- The right to be informed of the names of all witnesses whose information will be used to make a finding, in advance of that finding, when relevant.
- The right to regular updates on the status of the investigation and/or resolution.
- The right to have reports of alleged Policy violations addressed by Investigators, Title IX Coordinators, and Decision-maker who have received relevant annual training.
- The right to a Hearing Panel that is not single-sex in its composition, if a panel is used.
- The right to preservation of privacy, to the extent possible and permitted by law.
- The right to meetings, interviews, and/or hearings that are closed to the public.
- The right to petition that any NMJC representative in the process be recused on the basis of disqualifying bias and/or conflict of interest.
- The right to have an Advisor of their choice to accompany and assist the party in all meetings and/or interviews associated with the resolution process.
- The right to have NMJC compel the participation of faculty and staff witnesses.
- The right to the use of the appropriate standard of evidence, preponderance of the evidence; to make a finding after an objective evaluation of all relevant evidence.
- The right to be present, including presence via remote technology, during all testimony given and evidence presented during any formal grievance hearing.
- The right to have an impact statement considered by the Decision-maker following a determination of responsibility for any allegation, but prior to sanctioning.
- The right to be promptly informed in a written Notice of Outcome letter of the finding(s) and sanction(s) of the resolution process and a detailed rationale of the decision (including an explanation of how credibility was assessed), delivered simultaneously (without undue delay) to the parties.
- The right to be informed in writing of when a decision by NMJC is considered final and any changes to the sanction(s) that occur before the decision is finalized.
- The right to be informed of the opportunity to appeal the finding(s) and sanction(s) of the resolution process, and the procedures for doing so in accordance with the standards for appeal established by NMJC.
- The right to a fundamentally fair resolution as defined in these procedures.

### **35. Sanctions**

Factors considered when determining a sanction/responsive action may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- Previous allegations or allegations involving similar conduct
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation
- The need to remedy the effects of the discrimination, harassment, and/or retaliation on the Complainant and the community
- The impact on the parties
- Any other information deemed relevant by the Decision-maker

The sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested.

The sanctions described in this policy are not exclusive of, and may be in addition to, other actions taken or sanctions imposed by external authorities.

#### **a. Student Sanctions**

The following are sanctions that may be imposed upon students or organizations singly or in combination:

- *Admonition* – Oral or written reprimand.
- *Disciplinary probation* – A written reprimand for violation of institutional policy, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any institutional policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact orders, and/or other measures deemed appropriate.
- *Required Counseling*: A mandate to meet with and engage in either NMJC-sponsored or external counseling to better comprehend the misconduct and its effects.
- *Withholding Diploma*: NMJC may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities as a sanction if the student is found responsible for an alleged violation.
- *Revocation of Degree*: NMJC reserves the right to revoke a degree previously awarded from NMJC for fraud, misrepresentation, and/or other violation of NMJC policies, procedures, or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- *Suspension of rights and privileges* – This type of suspension includes, but is not limited to, participation in intramurals/recreation center, participation in extracurricular activities, election to office, restrictive building or area access, revocation of housing or visitation privileges, etc.
- *Administrative withdrawal from course(s)*.
- *Bar against readmission* – This action is for a specific period of time and/or may involve the student's drop from current enrollment entirely or from enrollment in one or more courses.
- *Suspension* – Removal from NMJC for a specified period of time. A suspended student shall be administratively withdrawn from NMJC, prohibited from entering the College's premises, and

blocked from future registration until approval is granted by the Conduct Officer or his/her designee. Suspension shall become a part of the student's permanent record and may be removed at the completion of the sanction, at the student's request.

- *Expulsion* – This action results in permanent removal from NMJC. An expelled student shall be administratively withdrawn from NMJC and prohibited from entering the NMJC's premises. Expulsion shall become part of the student's permanent record.
- *Other Actions*: In addition to or in place of the above sanctions, NMJC may assign any other sanctions as deemed appropriate.

#### **b. Employee Sanctions/Responsive Actions**

Responsive actions for an employee who has engaged in harassment, discrimination, and/or retaliation include:

- *Warning – Verbal or Written*
- *Performance Improvement Plan/Management Process*
- *Enhanced supervision, observation, or review*
- *Required Counseling*
- *Required Training or Education*
- *Probation*
- *Denial of Pay Increase/Pay Grade*
- *Loss of Oversight or Supervisory Responsibility*
- *Demotion*
- *Transfer*
- *Reassignment*
- *Assignment to new supervisor*
- *Restriction of stipends, and/or professional development resources*
- *Suspension with pay*
- *Suspension without pay*
- *Termination*
- *Other Actions*: In addition to or in place of the above sanctions/responsive actions, NMJC may assign any other responsive actions as deemed appropriate.

#### **36. Withdrawal or Resignation While Charges Pending**

Students: Should a student decide to not participate in the resolution process, the process proceeds absent their participation to a reasonable resolution. Should a student Respondent permanently withdraw from NMJC, the resolution process ends, as NMJC no longer has disciplinary jurisdiction over the withdrawn student.

However, NMJC will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s), and any ongoing effects of the alleged harassment, discrimination, and/or retaliation. The student who withdraws or leaves while the process is pending may not return to the Recipient. Such exclusion applies to all campuses of NMJC. Admissions will be notified that they cannot be readmitted. They may also be barred from NMJC property and/or events.

If the student Respondent only withdraws or takes a leave for a specified period of time (e.g., one semester or term), the resolution process may continue remotely and that student is not permitted to return to NMJC unless and until all sanctions have been satisfied.



Employees: Should an employee Respondent resign with unresolved allegations pending, the resolution process ends, as NMJC no longer has disciplinary jurisdiction over the resigned employee.

However, NMJC will continue to address and remedy any systemic issues or concerns that contributed to the alleged violation(s), and any ongoing effects of the alleged harassment or discrimination.

The employee who resigns with unresolved allegations pending is not eligible for rehire with NMJC, and the records retained by the Title IX Coordinator will reflect that status.

All NMJC responses to future inquiries regarding employment references for that individual will include that the former employee resigned during a pending disciplinary matter.

### **37. Appeals**

Any party may file a request for appeal (“Request for Appeal”), but it must be submitted in writing to the Title IX Coordinator within 7 days of the delivery of the Notice of Outcome.

A single Appeal Decision-maker will determine the appeal. No Decision-maker will have been involved in the process previously, including any dismissal appeal that may have been heard earlier in the process.

The Request for Appeal will be forwarded to the Appeal Decision-maker for consideration to determine if the request meets the grounds for appeal (a Review for Standing).

This review is not a review of the merits of the appeal, but solely a determination as to whether the request meets the grounds and is timely filed.

#### **a. Grounds for Appeal**

Appeals are limited to the following grounds:

- (A) Procedural irregularity that affected the outcome of the matter;
- (B) New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- (C) The Title IX Coordinator, Investigator(s), or Decision-maker had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter.

If any of the grounds in the Request for Appeal do not meet the grounds in this Policy, that request will be denied by the Appeal Decision-maker and the parties and their Advisors will be notified in writing of the denial and the rationale.

If any of the grounds in the Request for Appeal meet the grounds in this Policy, then the Appeal Decision-maker will notify the other party(ies) and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and/or the original Decision-maker.

The other party(ies) and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and/or the original Decision-maker will be mailed, emailed, and/or provided a hard copy of the request with the approved grounds and then be given 7 business days to submit a response to the portion of the appeal that was approved and involves them. All responses will be forwarded by the Decision-maker to all parties for review and comment.

The non-appealing party (if any) may also choose to raise a new ground for appeal at this time. If so, that will be reviewed to determine if it meets the grounds in this Policy by the Appeal Decision-maker and either denied or approved. If approved, it will be forwarded to the party who initially requested an appeal, the Investigator(s) and/or original Decision-maker, as necessary, who will submit their responses in 7 business days, which will be circulated for review and comment by all parties.

Neither party may submit any new requests for appeal after this time period. The Appeal Decision-maker will collect any additional information needed and all documentation regarding the approved grounds and the subsequent responses and the Appeal Decision-maker will render a decision in no more than 7 business days, barring exigent circumstances. All decisions apply the preponderance of the evidence standard.

A Notice of Appeal Outcome will be sent to all parties simultaneously including the decision on each approved ground and rationale for each decision. The Notice of Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanctions that may result which NMJC is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent NMJC is permitted to share under state or federal law.

Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official institutional records, or emailed to the parties' NMJC-issued email or otherwise approved account. Once mailed, emailed and/or received in-person, notice will be presumptively delivered.

#### **b. Sanctions Status During the Appeal**

Any sanctions imposed as a result of the hearing are stayed during the appeal process. Supportive measures may be reinstated, subject to the same supportive measure procedures above.

If any of the sanctions are to be implemented immediately post-hearing, but pre-appeal, then emergency removal procedures (detailed above) for a hearing on the justification for doing so must be permitted within 48 hours of implementation.

If the original sanctions include separation in any form, NMJC may place a hold on official transcripts, diplomas, graduations, and course registration pending the outcome of an appeal. The Respondent may request a stay of these holds from the Title IX Coordinator within two (2) business days of the notice of the sanctions. The request will be evaluated by the Title IX Coordinator or designee, whose determination is final.

#### **c. Appeal Considerations**

- Decisions on appeal are to be deferential to the original decision, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is a

compelling justification to do so.

- Appeals are not intended to provide for a full re-hearing (de novo) of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal.
- An appeal is not an opportunity for Appeal Decision-makers to substitute their judgment for that of the original Decision-maker merely because they disagree with the finding and/or sanction(s).
- The Appeal Decision-maker/Decision-maker may consult with the Title IX Coordinator on questions of procedure or rationale, for clarification, if needed. Documentation of all such consultation will be maintained.
- Appeals granted based on new evidence should normally be remanded to the original Investigator(s) and/or Decision-maker for reconsideration. Other appeals may be remanded at the discretion of the Title IX Coordinator or, in limited circumstances, decided on appeal.
- Once an appeal is decided, the outcome is final: further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new hearing).
- In rare cases where a procedural or substantive error cannot be cured by the original Decision-maker (as in cases of bias), the appeal may order a new hearing with a new Decision-maker.
- The results of a remand to a Decision-maker cannot be appealed. The results of a new hearing can be appealed, once, on any of the three available appeal grounds.
- In cases in which the appeal results in reinstatement to NMJC or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

### **38. Long-Term Remedies/Other Actions**

Following the conclusion of the resolution process, and in addition to any sanctions implemented, the Title IX Coordinator may implement additional long-term remedies or actions with respect to the parties and/or the campus community that are intended to stop the harassment, discrimination, and/or retaliation, remedy the effects, and prevent reoccurrence.

These remedies/actions may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Education to the individual and/or the community
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification and/or training
- Provision of transportation accommodations
- Implementation of long-term contact limitations between the parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator, certain long-term support or measures may also be provided to the parties even if no policy violation is found.

When no policy violation is found, the Title IX Coordinator will address any remedies owed by NMJC to the Respondent to ensure no effective denial of educational access.

NMJC will maintain the privacy of any long-term remedies/actions/measures, provided privacy does not impair the Recipient's ability to provide these services.

### **39. Failure to Comply with Sanctions and/or Interim and Long-term Remedies and/or Responsive Actions**

All Respondents are expected to comply with the assigned sanctions, responsive actions, and/or corrective actions within the timeframe specified by the final Decision-maker (including the Appeal Decision-maker).

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from NMJC and may be noted on a student's official transcript.

A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator.

### **40. Recordkeeping**

NMJC will maintain for a period of at least seven years records of:

1. Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation;
2. Any disciplinary sanctions imposed on the Respondent;
3. Any remedies provided to the Complainant designed to restore or preserve equal access to NMJC's education program or activity;
4. Any appeal and the result therefrom;
5. Any Informal Resolution and the result therefrom;
6. All materials used to train Title IX Coordinators, Investigators, Decision-makers, and any person who facilitates an Informal Resolution process. NMJC will make these training materials publicly available on NMJC's website; and
7. Any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment, including:
  - a. The basis for all conclusions that the response was not deliberately indifferent;
  - b. Any measures designed to restore or preserve equal access to NMJC's education program or activity; and
  - c. If no supportive measures were provided to the Complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

NMJC will also maintain any and all records in accordance with state and federal laws.

### **41. Disabilities Accommodations in the Resolution Process**

NMJC is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to NMJC's resolution process.

Anyone needing such accommodations or support should contact the Office of Accessibility Services or the NMJC Human Resources office (if an employee), who will review the request and, in consultation

with the person requesting the accommodation and the Title IX Coordinator, determine which accommodations are appropriate and necessary for full participation in the process.

#### **42. Revision of this Policy and Procedures**

This Policy and procedures supersede any previous policy(ies) addressing harassment, sexual misconduct, discrimination, and/or retaliation under Title IX and will be reviewed and updated periodically by the Title IX Coordinator. NMJC reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

During the resolution process, the Title IX Coordinator may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules. The Title IX Coordinator may also vary procedures materially with notice (on the institutional website, with the appropriate effective date identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this Policy and procedures.

If government laws or regulations change – or court decisions alter – the requirements in a way that impacts this document, this document will be construed to comply with the most recent government regulations or holdings.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such policies and codes, generally.

This Policy and procedures are effective September 17, 2020.

ATIXA 2020 ONE POLICY, TWO PROCEDURES MODEL  
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## **What Can You Do About Sexual Violence?**

NMJC is committed to maintaining a positive learning, working and living environment and will not tolerate acts of sexual harassment or sexual violence or related retaliation against or by any employee or student. When sexual harassment or sexual violence has occurred and is brought to the attention of a Title IX official, NMJC will take steps to end the harassment or violence, prevent its re-occurrence and address its effects.

### **[NMJC Title IX Booklet](#)**

#### **Prevention**

College is a space for personal growth, learning, and new opportunity, but it is not absent from certain dangers. You don't need to be overly concerned, but you should do your best to remain alert to your surroundings and anything that is out-of-the-ordinary.

### **What can I do to help protect others?**

If you see or hear these things, tell someone in authority immediately:

- Harassment, threats, or bullying, online or in-person
- “Hate speech” or threats made online or in-person
- Domestic or intimate partner abuse or violence
- Comments from a student about harming self or others
- Someone acting suspiciously or carrying a weapon

Don’t be a bystander! Students are often the first to become aware of problems on campus. However, due to a social phenomenon called the “bystander effect”, sometimes problems are not addressed. The bystander effect happens when the presence of others (being in a group) discourages an individual from intervening in a situation in which there is an emergency. Researchers Bibb Latane and John Darley argued that it is the result of the belief that someone else will act so I don’t need to, that is compounded by social influence (the fact that our behaviors are influenced by those around us).

### **What can I do to help protect myself?**

- Stay alert – Don’t wear earbuds or headphones while walking! You may not hear someone behind you.
- Walk in high-traffic, well-lit areas at night.
- Request an escort when feeling unsafe.
- Keep your car and dorm apartments and windows closed and locked.
- Don’t let strangers into housing facilities and do not prop doors.
- Don’t lend out your ID.
- Take self-defense classes.
- In the event of a crisis, don’t panic. Run if possible, hide if you can’t run, and fight if you can’t hide.

Reduce your risk: most sexual assaults involve people who know each other – and are using alcohol and/or other drugs. Staying sober is your best defense against sexual assault.

### **What to do if you have been sexually assaulted.**

It’s hard to know what to do, how to feel, or what your options are after a sexual assault. Please know that you’re not alone. Below are some things to keep in mind. If you are in immediate danger or seriously injured, call 911.

**Get to a safe place.** Get to a location where you can call for help, preferably a safe place where you are not alone. Consider reaching out to someone you trust or call 911.

**Call the crisis hotline** at (575)226-7263 to speak to a trained victim’s advocate. An advocate will be able to walk you through the next steps and help you make an informed decision based on your wishes and consent for care.

**Seek medical attention.** Even if you do not want to report the assault immediately, still consider having a physical exam. Survivors may or may not have physical injuries and it is best to be seen by a trained medical professional for evaluation. It is important to determine the risks of STIs and pregnancy and

have the option of preventive medications. Forensic evidence can be collected and stored in case you decide to report at a later date.

**Seek free, confidential counseling.** NMJC counselors are here to help you. They are located in the Ben Alexander building or you can call (575)492-2577 to speak an NMJC counselor on the phone or to make an appointment. They are here to help, and can refer you to additional resources if needed. It's never too late to call; many survivors do not realize they need counseling help until months or years later.

**Report to campus authorities.** Even if you do not wish to file a formal complaint, campus authorities can provide assistance and guidance related to interim measures for your safety and well-being. Survivors are not required to file a crime report, but are encouraged to do so and will be assisted by campus authorities in notifying law enforcement, if they choose. Regardless of whether a survivor opts to file a crime report, interim or protective measures will be provided if the survivor requests them and if they are reasonably available.

**On-campus resources:**

- Public Safety 24-hour Line (575)399-2033
- Title IX Coordinator (575)492-2761
- Housing 24-hour on-call line (575)399-4681
- Counseling (575)492-2577
- Financial Aid (575) 492-2561
- Veteran's and international students (575) 392-5112

**Off-campus resources:**

- Police/Emergency – 911
- Guidance Center of Lea County (575)393-3168
- ARISE 24/7 Crisis Hotline (575)226-7263
- RAINN 24/7 Get Help Line (800)656-4673

**State/National Resources**

[New Mexico Legal Aid](#)

[You're Not Alone](#)

[Crime Victim's Institute](#)

[National Hopeline Network \(Suicide\)](#)

[National Suicide Prevention Lifeline](#)

[Veterans Crisis Line](#)

[National Domestic Violence Hotline](#)

[National Sexual Violence Resource Center](#)

[RAINN – Rape Abuse and Incest National Network](#)

**What should I do if I witnessed a crime of sexual assault?**

If you are a witness to a crime of sexual violence you should report the incident to campus security or local police or speak to the Vice President for Student Services (the Title IX Coordinator) who can assist you with further reporting as appropriate.

**What rights do I have if I am accused of sexual harassment or assault?**

In all cases, both complainant and respondent are afforded prompt, fair and impartial due process, including the opportunity to have an advisor/support person present during any hearings and access to free, confidential counseling services.

**How friends and family can help the survivor?**

Say something. Lend a listening ear. Show that you care and are willing to listen.

Do not force the issue but allow the individual to confide in you at his/her own pace. Never blame the person for what is happening or underestimate his/her fear of potential danger. Focus on supporting the individual's right to make his/her own decisions.

Guide survivors to campus and community resources. Let him/her know they are not alone and people are available to help. Encourage him/her to seek sexual violence advocates and assure them that information will be kept confidential in most cases.

Do not judge victims. Tell the person that you are sorry that they have been hurt. No matter his/her behavior prior to the assault, no one deserves to be assaulted.

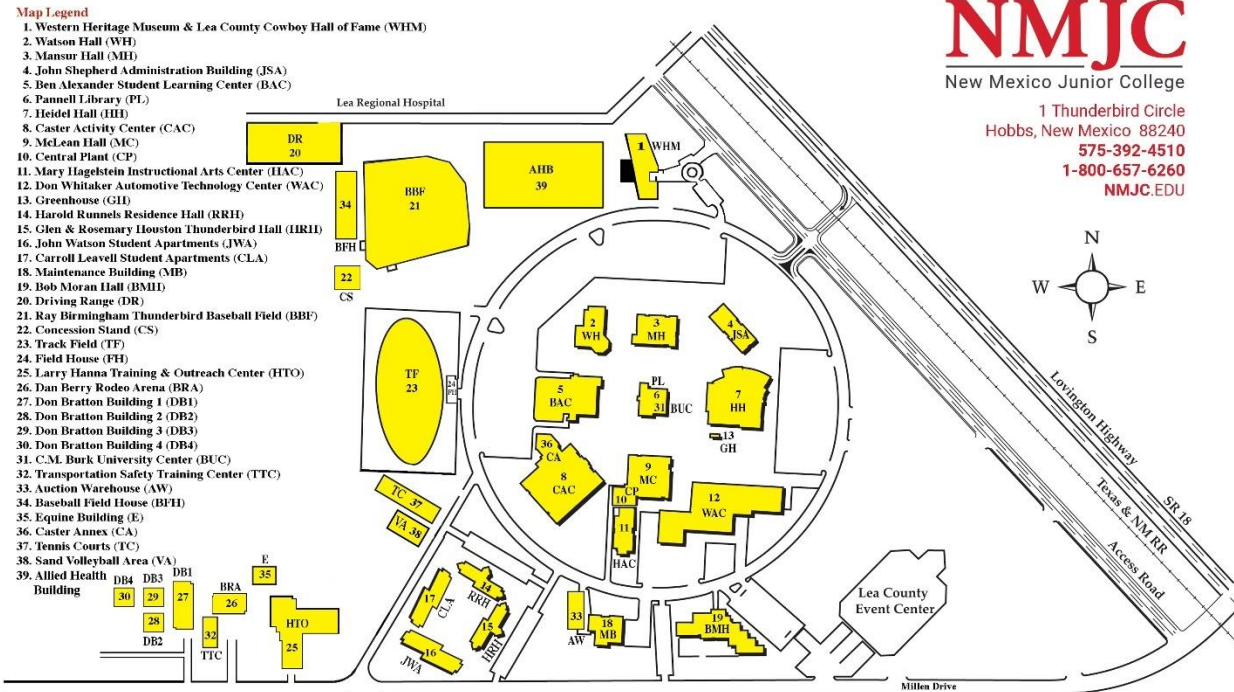
Find your own support. You cannot support someone else if you are not supported, however do not try to receive that support from the survivor.

1 in 3 women—and 1 in 4 men—have been in abusive relationships. Women between the ages of 18 - 24 are most commonly abused by an intimate partner - NCADV.



## Section IX

### New Mexico Junior College Map



The main campus of New Mexico Junior College is composed of several building complexes that contain the primary services and departments of the College. Within these buildings are faculty offices, classrooms, laboratories, and other facilities.

1. **Western Heritage Museum Complex & Lea County Cowboy Hall of Fame** - In addition to offering world-class exhibits throughout the year that exemplify the diversity, beauty, and rich cultural traditions that have shaped the American Southwest, the Museum also serves as home to the renowned Lea County Cowboy Hall of Fame.
2. **Watson Hall** – Watson Hall houses the Music programs at NMJC and features a performance space as well as classroom and lab spaces for instruction of instrumental, vocal, and theory courses in music.
3. **Mansur Hall** – This facility serves as the primary residence for the Division of Arts, and Humanities. English, German, Spanish, Education, and Interpersonal and Speech Communications are taught in Mansur Hall.
4. **John Shepherd Administrative Building** – The Administrative Center houses the offices of the NMJC President, the Vice President for Finance, and the Vice President for Instruction, as well as the Business Office, the Human Resources Office, the NMJC Foundation Office, Public Relations and Marketing Department, and the Office of Institutional Effectiveness.
5. **Ben Alexander Student Learning Center** – The Ben Alexander Student Learning Center was designed to offer a convenient “one-stop shopping” experience for students by providing recruiting, registration, counseling, and financial aid services, as well as a bookstore, a testing center, classrooms, and labs. The second floor of the student center houses the TRIO Programs and Adult Basic Education. The office of the Vice President for Student Services, the Dean of Students, and the Student Life Office are also housed in the BAC. The previously existing area was remodeled to provide additional student space, including an

Internet café, lounge area, game room, and outdoor seating. The Security Office, which houses campus security officers available for 24-hour response to campus situations, is also located here.

6. **Pannell Library** – NMJC’s research collections, microforms, media materials, and active serials (periodicals, newspapers, indexes, and abstracts) are housed in this centrally located facility on campus. Other library resources include current university and college catalogs, career materials, telephone directories, annual corporation reports, indexes, pamphlets, an extensive business library, and access to FirstSearch databases. Interlibrary loan service is also available. Services include reference and research assistance, library instruction, bibliographic instructions, information literacy, library tours, reserve reading, photocopying, and bibliography preparation. The building is also home to the NMJC Academic Success Center as well as the Office of the Dean of Arts, Sciences & Learning Support.
7. **Heidel Hall** – Heidel Hall houses most of the science and mathematics instructional classrooms, laboratories, and faculty offices.
8. **Caster Activity Center** – This structure houses athletic facilities for students. The CAC also houses the Athletic Department offices. The Activity Center combines some of the finest equipment and conveniences with an active calendar of intercollegiate and other athletic events. Just west of the CAC are outdoor tennis courts and an all-weather track facility.
9. **McLean Hall** – This building complex houses facilities for the campus Computer Center. This facility also houses the Cosmetology lab and classrooms.
10. **Central Mechanical** – This building houses the central plant, which contains the main mechanical infrastructure for the entire campus.
11. **Mary Hagelstein Instructional Arts Center** – This facility contains the Fine Arts classrooms as well as the Document Center.
12. **Don Whitaker Automotive Technology Center** - Located in this building are NMJC’s state-of-the-art automotive and welding laboratories and classrooms.
13. **Greenhouse** – This area is utilized by grounds personnel to grow in-house plants for campus landscapes.
14. **Harold Runnels Residence Hall** — Harold Runnels Residence Hall provides comfortable, convenient dormitory living for NMJC students.
15. **Glen & Rosemary Houston Thunderbird Hall** — Glen & Rosemary Houston Thunderbird Hall provides comfortable, convenient dormitory living for NMJC students.
16. **John Watson Student Apartments**— The John Watson Student Apartments provide furnished apartment living for NMJC students. A student apartment includes a kitchen, living room, four bedrooms, and two full bathrooms. Each bedroom has Internet access and cable TV connections. A local phone connection is provided in the kitchen area of each apartment. Also available is a 24/7 laundry facility located on the second floor. The complete area comprising the dorms and apartments is known as Thunderbird Village.
17. **Carroll Leavell Student Apartments**— The Carroll Leavell Student Apartments provide furnished apartment living for NMJC students. A student apartment includes a kitchen, living room, four bedrooms, and two full bathrooms. Each bedroom has Internet access and cable TV connections. A local phone connection is provided in the kitchen area of each apartment. Also available is a 24/7 laundry facility located on the second floor.
18. **Warehouse / Maintenance (WM)**—This building houses the maintenance department and houses the motor vehicles utilized for company travel.
19. **Bob Moran Hall** – This facility houses instructional classrooms and laboratories for Entertainment and Music Technology and public safety.
20. **Driving Range**—Students enrolled in a golf class and / or the members of the NMJC Golf team have access to the on-campus driving range. (The driving range is not open to the public).
21. **Ray Birmingham Thunderbird Baseball Field**—NMJC’s collegiate baseball field for practice and games was named for the legendary coach who, among other honors, led the T-Birds to a national championship in 2005. The facility has a seating capacity of 700.
22. **Concession Stand for Baseball Field**

23. **Ross Black Field of Champions**—This facility is primarily utilized by Cross Country / Track & Field teams but is open to the public year-round.
24. **Field House**
25. **Larry Hanna Training & Outreach Center**—The Larry Hanna Training and Outreach Center is a full-service training and education conference center uniquely designed to facilitate training seminars, continuing education programs, conferences, business meetings, sales meetings, marketing presentations, and networking meetings. The Division of Training & Outreach includes the following departments which are housed in this facility: Workforce Training, Professional Development, Events, and the Small Business Development Center (SBDC). This division provides credit and non-credit courses for professional development and life-long learning. The facility also houses the Office of the Vice President for Training and Outreach and the Dean of Training & Outreach.
26. **Dan Berry Rodeo Arena** — NMJC’s intercollegiate rodeo practice facilities are located here.
27. **Don Bratton Building 1**—This is one of the training facilities included in the Don Bratton Energy Technology Center. The Don Bratton Energy Technology Center is an innovative partnership with the oil and gas / alternative industries to meet the needs of both oil and gas producers and potential alternative energy workers in the Permian Basin. It houses both corporate and traditional classrooms and outdoor labs.
28. **Don Bratton Building 2**—This is one of the training facilities included in the Don Bratton Energy Technology Center.
29. **Don Bratton Building 3**—This is one of the training facilities included in the Don Bratton Energy Technology Center.
30. **Don Bratton Building 4**— This is one of the training facilities included in the Don Bratton Energy Technology Center.
31. **C. M. Burk University Center**—The University Center houses the offices of Distance Learning whose staff works with students and faculty in a support role for online and ITV classes.
32. **Transportation Safety Training Center**—This building houses the Transportation Safety staff and registration services for CDL programs, Defensive Driving, DWI, and Driver’s Education. It also contains the classrooms for CDL training.
33. **Auction Warehouse**
34. **Baseball Fieldhouse (BF)**—The Baseball Fieldhouse has an enclosed practice area, locker rooms, referee’s locker rooms / shower area and will house the Baseball Hall of Fame.
35. **Equine Building**—This newly constructed Equine Building has an arena and classrooms.
36. **Caster Annex** – The annex houses SOAR which helps students with skills needed to be successful in college including tutoring, early alert, laptops to borrow, food pantry, clothes closet, knowledge on community resources, etc.
37. **Tennis Courts**
38. **Sand Volleyball Area**
39. **Allied Health Building** – The Allied Health Building provides state-of-the-art facilities for nursing and other related areas.