

5.05 – Student Grievance Procedures v040919

PART 1: SCOPE AND PURPOSE

This rule applies throughout the NMSU System. Any undergraduate or graduate student who believes that they have been treated unjustly by an NMSU process or person may seek redress through the appropriate university process. If there is a specific policy or rule applicable to the subject matter of the student's concern, grievance or complaint (hereinafter "grievance"), that policy or rule and its procedures will govern. This rule provides general principles governing student grievances (Part 2); identifies the areas where a specific grievance process is available to the student (Part 3); and sets forth a general student non-academic grievance procedure to govern when no specific grievance resolution process applies (Part 4). If unsure about which process applies to a particular situation, students may obtain guidance from the dean of students or designee in the office of Student Life.

PART 2: GENERAL PRINCIPLES APPLICABLE TO ALL STUDENT GRIEVANCES

Unless in direct conflict with a specific provision in the other rules cited in Part 3, which provide distinct procedures for resolving certain types of student grievances, the following general principles apply:

- A. **Day:** When used in this rule, a day means a university business day, Monday through Friday (8:00 am to 5:00 pm), excluding official NMSU holidays and closures.
- B. **Official Correspondence:** Communications relating to grievances may be delivered in person, via email using the official NMSU email account, or by U.S. mail to the address maintained in official NMSU records.
- C. **Impartiality of Fact Finders and Decision Makers:** Grievances will be investigated and resolved professionally by an objective individual not directly involved in the matter. When a conflict of interest or other type of bias is alleged, senior administration will assist to recommend or take action to ensure the appointment of an impartial decision maker.
- D. **Legal Representation:** The purpose of this rule is to allow the parties to resolve grievances at the lowest administrative level in a fair and expeditious manner, without the need for legal counsel. Grievance proceedings at NMSU are not legal proceedings and formal rules of evidence are not applicable. If any party, including the university, elects to utilize legal counsel, the attorneys may attend any meeting or proceeding to advise their client, but must not actively participate in the hearing or speak for the client.
- E. **Non-Retaliation:** Students will not be treated adversely for having filed a grievance or participated in the grievance resolution process. Claims of retaliation will be taken seriously and investigated promptly outside of the grievance process. If retaliation is substantiated, appropriate disciplinary action will be taken.
- F. **Prompt Resolution:** The time required to resolve a grievance will vary depending upon the nature of the claim and the extent of investigation required. The grievance resolution procedures identified in Part 3 include time deadlines which apply for that process. Grievances filed pursuant to the general student non-academic grievance process set forth in Part 4 below should be finally resolved within sixty (60) Days of the first formal filing, including the appeal process, without extenuating circumstances and notice thereof.
- G. **Retention of Student Grievance Records:** Documentation relating to student grievances will be maintained by the dean of students or designee within the office of Student Life, or by the official(s)

responsible for administration of the grievance procedures identified in Part 3, with notification to the dean of students, for a minimum of the records retention period required by New Mexico law and regulations (NMAC 1.21.2.1 et seq), and no sooner than three years from the filing of the grievance, as required by NMAC 5.99.1.19 B. The documentation maintained must include a copy of the grievance and any records reflecting the processing of the grievance.

PART 3: PROCEDURES FOR SPECIFIC TYPES OF STUDENT GRIEVANCES

Students, faculty and staff are directed to the following rules which provide distinct procedures for the resolution of certain types of grievances.

- A. **Academic Appeals:** If a student's grievance involves dissatisfaction with a grade assigned by an instructor or other concern in the academic environment, the governing rules are ARP 5.13 (for undergraduate courses) or ARP 5.14 (for graduate courses). *See ARP 5.13 – Review of Undergraduate Student Academic Grievances (Grade Appeals); ARP 5.14 – Review of Graduate Student Academic Grievances (Grade Appeals)*
- B. **Reporting Cheating or Other Breach of Academic Integrity:** If a student wishes to report suspected cheating or other breach of academic integrity, the governing rules are ARP 5.10 and 5.11. *See ARP 5.10 – Student Academic Code of Conduct – Academic Integrity and ARP 5.11 – Procedures to Respond to Allegations of Student Academic Misconduct*
- C. **All forms of Discriminatory Misconduct:** If a student's grievance involves any type of illegal discrimination, ARP 3.25 governs *RPM 3.25, Equal Opportunity and Prohibition of Unlawful Discrimination; ARP 3.25 - Discrimination, Harassment and Sexual Misconduct on Campus*. Complaints by students or by third parties alleging or reporting unlawful discrimination must be reported to the Office of Institutional Equity at:

O'Loughlin House
MSC 3515, P.O. Box 30001
Las Cruces, NM 88003
Title IX and Section 504 Coordinator: Laura Castille, OIE Executive Director
Phone: 575-646-3635; **Email:** equity@nmsu.edu; website: <http://equity.nmsu.edu>
- D. **Failure to Provide Reasonable Accommodations:** If a student's grievance relates to a request for reasonable accommodations based on disability, ARP 3.40 and the operational procedures of Student Accessibility Services govern. *See ARP 3.40 – Process for Disability Accommodation; ARP 3.25 – Discrimination, Harassment and Sexual Misconduct on Campus*.
- E. **Service Animal or ESA Issues:** If a student's grievance relates to use of a Service Animal or an Emotional Support Animal, ARP 3.45 and 3.25 are the governing rules *ARP 3.45 - Assistive, Service, and Companion Animals on University Premises; ARP 3.25 – Discrimination, Harassment and Sexual Misconduct on Campus*.
- F. **Bullying, Hazing or Non-Discriminatory Hostile Misconduct:** If a student's grievance involves bullying, hazing or other non-discriminatory hostile misconduct, ARP 3.80 applies *ARP 3.80 - Prohibition of Bullying, Hazing and Hostile Misconduct (Non-Discriminatory)*.
- G. **Student Conduct Complaints:** If a student has a complaint about other general misconduct or social behavior by another student or student organization, ARP 5.20 governs. *See ARP 5.20 - Student Social Code of Conduct*
- H. **Intellectual Property Complaints:** If a student's grievance involves a dispute over ownership of intellectual property, ARP 11.05 applies *ARP 11.05 - Intellectual Property Management and Commercialization*.

- I. **Employee Grievances:** If a student also serves in an employee capacity, the university's HR rules will govern. See <https://www.arp.nmsu.edu>
- J. **Grievances by NMSU Students Residing outside of New Mexico:** In addition to the other grievance procedures set forth in this rule, NMSU Students enrolled in courses on-line who reside in a state participating in the State Authorization Reciprocity Agreement (SARA) may obtain an additional review of their grievance from the New Mexico SARA Portal Entity. SARA is an agreement among member states, districts and territories that sets national standards for interstate offering of postsecondary distance education courses and programs and allows students to benefit from educational services across state lines. (<http://www.hed.state.nm.us/students/nc-sara.aspx>). Appeals to the SARA Portal are subject to the following:
1. Grievances alleging false or misleading information relating to the accuracy of institutional or program accreditation status, tuition and fee expenses, course transfer information, requirements to meet professional licensure requirements or other institutional representation that are not resolved by NMSU may be appealed to the [New Mexico SARA Portal Entity](#).
 2. With the exception of grade appeals and student conduct matters, all other grievances not resolved by NMSU, including alleged violation of SARA policies, may also be appealed to the [New Mexico SARA Portal Entity](#) within two years from the date of the incident giving rise to the grievance.
 3. In the event of an appeal by a student residing in a state participating in SARA, the NM SARA Portal Entity will notify that state's SARA Portal Entity about the appeal, coordinate with that Entity if it desires to assist with the resolution, and inform that Entity of the final disposition.
 4. Questions concerning NMSU Distance Education or SARA policies and procedures may be emailed directly to online@nmsu.edu or mailed to:

Distance Education
New Mexico State University
Milton Hall, Rm 185
2915 McFie Circle
MSC IIQ; P.O. Box 30001,
Las Cruces, NM 88003
575-646-8231
888-729-6678
575- 646-1650 (DE Director)

5. Information about SARA may be found at: <http://www.hed.state.nm.us/students/nc-sara.aspx> and grievances may be directed to the New Mexico State Portal Entity Contact at:

Alicia Armijo, SARA Coordinator
New Mexico Higher Education Department
2044 Galisteo Street, Suite 4
Santa Fe, NM 87505-2100
(505) 476-8411
alicia.armijo@state.nm.us

PART 4: GENERAL STUDENT NON-ACADEMIC GRIEVANCE PROCEDURE

If there is no specific rule or procedure to address the subject matter of a student's concern or grievance, the general student non-academic grievance procedures, set forth below, govern.

- A. **Time Deadline to Initiate Grievance:** Absent extenuating circumstances, a student must initiate action pursuant to this procedure within sixty (60) Days following the date that the alleged incident or issue occurred or became known to the student, whichever is later. A failure by the university to respond to the student within the applicable time limits set forth below will entitle, but not require, the student to proceed to the next step in the process.

B. Grievance Steps:

1. **Step 1 (Informal Grievance Resolution):** The aggrieved student may (but is not required) to attempt an informal resolution directly through written correspondence or in person discussion with the involved staff member. If the matter is not resolved informally, the student may proceed to Step 2.
2. **Step 2 (Resolution of Written Grievance):** The Student must submit a written grievance to the appropriate unit director or department head, who will typically serve as the grievance officer. In cases where the unit director or department head has involvement in the events leading to the grievance, the grievance may be submitted directly to the cognizant dean or vice president, who will then serve as the grievance officer, or will appoint another individual to serve in this capacity.
 - a. The student's grievance should be in the form of a memo and clearly identify that it is a grievance, using the word "grievance" in the subject line. The grievance memo should also include the following: (1) identification of the respondent(s) by name and job title, if known; (2) the issue or allegations that form the basis for the grievance and points in support of the grievant's position; (3) names of individuals with personal knowledge of the facts; and (4) a statement of the relief sought or the desired outcome.
 - b. After confirming that none of the processes identified in Part 3 applies to the facts alleged in the grievance, the grievance officer will conduct additional fact finding to ascertain all relevant facts. Typically, the grievance officer will facilitate a meeting between the involved parties, or will meet with each individually. Students are entitled to bring any support person of their choice to any meeting called for the purpose of grievance resolution; such support person is not permitted to actively advocate nor speak for the grievant, unless permitted as an approved disability accommodation. After consideration of the relevant facts, the unit head or department head will issue a written decision to the student and to the named respondent(s).
 - c. Step 2 will be concluded within twenty (20) Days of the date the grievance was received by the unit director or department head, absent extenuating circumstances and notice to the student.
3. **Step 3 (Appeal; Final Grievance Decision):** The decision of the unit director or department head may be appealed within five (5) Days from receipt of the written decision, by submitting a written Notice of Student Grievance Appeal to the relevant campus president who will act as, or appoint another individual to serve, as the appeal officer.
 - a. Upon receipt of the Notice of Student Grievance Appeal, all records pertaining to consideration of the grievance will be forwarded to the appeal officer by the grievance officer.
 - b. The appeal officer will review the matter on appeal and issue a final decision on behalf of the university.
 - c. As part of the appeal review process, the appellant and the parties involved in the grievance will be permitted to submit their position relative to the issues raised in the Notice of Student Grievance Appeal and to rebut the information submitted by the other parties to the appeal.
 - d. Solely at the discretion of the appeal officer, the student and the unit director or department head and/or other involved parties may be requested to attend a meeting in person to summarize their respective positions relative to the grievance decision on appeal, and to answer questions.
 - e. The appeal officer will consider the grievance record and any additional information offered by the parties and will issue a final decision supported by the facts found by a preponderance of the evidence standard. The final decision may uphold, reverse or modify the decision of the grievance officer. Absent extenuating circumstances and notice to the student, the final decision will be issued no later than twenty five (25) Days from the date the grievance record was received by the office of the appeal officer.