

16.79 - NMSU Sponsored Youth Programs v010219

PART 1: PURPOSE

NMSU is committed to providing a safe and educational experience for all children participating in its' Youth Programs. This rule applies to all Youth Programs sponsored by NMSU. In addition to establishing approval requirements and operational rules for conducting NMSU sponsored Youth Program(s), this rule establishes requirements for training and criminal background checks for all personnel working with Minors. NMSU employees and units may not conduct Youth Programs except in compliance with this rule.

PART 2: PERSONNEL AND ROLES

For purposes of this rule, the following definitions apply:

- A. **Minor:** Any person who is under the age of 18 years, and not legally emancipated.
- B. **NMSU Sponsor:** Any college, a department or other individual administrative unit governed by the NMSU system that sponsors Youth Programs as defined below.
- C. **Person in Charge (PIC):** The individual designated to be physically present and responsible for the direction and supervision of the Youth Program at any given time. The Youth Program will have only one designated PIC at each location at any given time, but there may be multiple individuals who share the PIC responsibility during the course of a Youth Program (e.g., a PIC of the daytime activities, and another in charge of the nighttime activities).
- D. **Program Participant:** Any person registered for or engaged in a Youth Program.
- E. **Youth Program:** An NMSU sponsored non-credit bearing activity, program or other event (e.g. meeting, workshop, sport camp, academic camp or conference) intended for and attended primarily by Minors, and not requiring attendance and direct supervision by a parent or legal guardian.
- F. **Program Director (Director):** An employee of the unit that is sponsoring the Youth Program, who is the primary contact for the program and ~~who~~ has overall responsibility for the Youth Program operation and compliance with this rule. Each sponsoring unit will designate a single individual employee to serve as the Youth Program Director. The Youth Program Director must be available for consultation by the PIC's at all times during the Youth Program operation.
- G. **Program Supervisor (Supervisor):** Any individual adult who engages in organizing or conducting activities for or the supervision of Program Participants. Program Participants will be under the direct supervision of a Supervisor at all times during the Youth Program except as otherwise allowed by this rule. All Supervisors will report and perform duties under the direction of the PIC.
- H. **Program Staff:** Every individual, regardless of whether employed or volunteer, who is responsible for any aspect of the Youth Program operation which involves communication with Program Participants including the Director, all individuals serving as PIC, and all Supervisors. Guest presenters or activity leaders who provide a particular skill or talent to the Youth Program and have no supervisory role with Program Participants are not Program Staff.

PART 3: YOUTH PROGRAM APPROVALS AND REQUIREMENTS AND ADMINISTRATIVE RULES

A. Required Youth Program Approval: All proposed Youth Programs must be approved by the Dean or Vice President with authority over the NMSU Sponsor. The relevant Dean or Vice President is responsible for assessing the risks associated with the Program and for providing the oversight necessary to achieve compliance with this rule. NMSU's Environmental Health Safety & Risk Management office (EHS&RM), the University General Counsel (UGC), Human Resource Services office (HRS) and the NMSU Police Department (NMSU PD) will assist with risk assessment upon request. Youth Programs limited to select groups (e.g. limited to single gender or other protected class) will not be approved without clearance from the Office of Institutional Equity (such programs generally violate laws prohibiting discrimination based on membership in a protected class).

B. Human Subjects Research: Any Youth Program in which research data will be collected, or which will result in research presented or published, must obtain advance approval from the Institutional Review Board (IRB). See (find link) Such research programs may request a waiver from the NMSU recruitment requirements set forth in Section E. below.

B.C. Program Approval Process: The Youth Program proposal must be submitted for approval using the Youth Program Registration form available at the UGC website <https://legal.nmsu.edu>. Any NMSU entity seeking to sponsor a youth program should obtain approval and initiate the registration process at least 3 months prior to the proposed program dates to allow adequate time for completion of training, background check clearances and any other registration requirements.

C.D. Program Registration: The NMSU Sponsor must initiate registration of the Youth Program with Student Affairs and Enrollment Management (SAEM) by submitting the Youth Program Registration form, as approved by the appropriate Dean or Vice President. SAEM will validate the registration on the Youth Program Proposal Form and will return a validated copy to the NMSU Sponsor, with another copy sent to NMSU PD. The Program Registration will be placed on "pending" status until the registration is completed. At least 5 business days prior to the start of the Program, the NMSU Sponsor must complete the registration process by submitting the Youth Program Confirmation and Attestation form (available at the UGC website <https://legal.nmsu.edu>) which has been approved by the appropriate Dean or Vice President. The NMSU Sponsor will not allow any Youth Program to commence prior to completion of these registration requirements. Youth Programs which operate continuously with no set end date must meet the requirements and submit a new Program Confirmation and Attestation form at least annually.

D.E. NMSU Recruitment: All Directors will provide SAEM with the opportunity to distribute recruitment materials to Youth Program participants during the operation of the Youth Program. Upon request, all Directors will provide SAEM with a list of Program Participants and their addresses, to be used solely for NMSU recruitment.

E.F. Facility Scheduling: The NMSU Sponsor must schedule the ~~facilities~~use of any NMSU controlled facility or outdoor spaces to be used for the Youth Program: with the appropriate Facility-Space Scheduling Authority (FSA). The identity and contact information for the ~~Facility Scheduling Authority (FSA)~~FSA for each university owned facility is available from ~~now~~the Office of Space Planning website at <https://space.nmsu.edu>. Each FSA may require the NMSU Sponsor to sign a facility use agreement; in all cases the NMSU Sponsor is required to comply with the facility use rules imposed by the FSA. Arrangements for on-campus overnight housing and cafeteria dining services must be contracted through the Conference Services office. Sponsoring units are responsible for making the financial arrangements for such services and for any facility usage fee charge by the FSA. The use of off-campus facilities for NMSU sponsored Youth Programs does not exempt the NMSU Sponsor from the other requirements of this rule.

G. Accident Insurance: Low cost accident insurance is available for purchase by NMSU Sponsors. Program Directors should contact EHS&RM to register for this insurance. Subject to the terms and limitations of the policy, this insurance will cover medical costs associated with accidental injuries suffered by Program Participants.

F.H. Fiscal Management: All revenue generated and expenses incurred by Youth Programs must be accounted for in compliance with the NMSU Business Procedures Manual, and must follow all other NMSU regulations for proper

fiscal management, such as cash handling regulations from the Business Procedures Manual. ~~(link)~~ ~~To establish~~ <https://af.nmsu.edu/bpm/> For assistance in establishing appropriate fiscal management contact Aggie Service Center via email to ASC@nmsu.edu. Any supplementary compensation paid to NMSU employees (above their regular compensation) must be approved in advance by Human Resource Services.

PART 4: PROGRAM PARTICIPANT REGISTRATION AND ACCOMMODATION

- A. **Program Participant Registration:** Every NMSU Sponsor will utilize a participant registration process with approved informed consent forms signed by a parent or legal guardian (permission to participate and acknowledgement of risks), emergency contact information, emergency medical information and any other information determined to be necessary by ~~the Vice President of Student Success.~~ **University General Counsel (UGC).** Approved forms and templates ~~are~~ **will be** available ~~from~~ the UGC website <http://legal.nmsu.edu> ~~or at the VP SAEM website~~ <https://studentaffairs.nmsu.edu/>. Additional forms seeking supplementary information may also be used by the NMSU Sponsor as determined necessary for the specific Youth Program.
- B. **Nondiscrimination ~~And~~ Disability Accommodations:** The NMSU Sponsor will include and comply with the NMSU-approved non-discrimination statement in the program promotional and registration materials for every Youth Program. The NMSU Sponsor must consult with OIE regarding ~~request~~ **every request** for accommodation based on ~~disability or medical needs or~~ religious belief or practice, ~~disability or medical needs.~~

PART 5: PROGRAM SAFETY MEASURES

- A. **Emergency Information:** For the duration of the Youth Program, the PIC must have a readily accessible list of all participants which contains emergency contact information and any emergency medical information in a format which can be provided immediately to emergency personnel.
- B. **Emergency Response:** The PIC will immediately call 911 for emergency services in the event a Program Participant receives a serious injury or for any situation posing an imminent serious risk to individual health or safety. ~~Once emergency responders have arrived,~~ As soon as feasible, the PIC will ~~immediately~~ notify the Director. The Director is responsible for immediately notifying the parents or legal guardian of any minor Program Participant receiving emergency care, but may request assistance from ~~NMSU PD~~ NMSUPD in fulfilling this responsibility. Additionally, once the emergency is resolved, the PIC and any other involved parties must file incident reports with EHS&RM using their approved incident report form.
- C. **Mandatory Training:** The Director must ensure that all Youth Program Staff (including any individual who will work with minors during the Program) complete the required training, as provided in this rule, prior to commencement of the Youth Program.
- D. **Designation Of Responsible Parties:** The Youth Program Director must ensure that the roles and responsibilities for Program Supervisors, the PIC, and other individuals involved in organizing and operating the Youth Program are clearly communicated, especially those duties associated with the direct supervision of Program Participants.
- E. **Minor Supervision:** The PIC or their designees must supervise participating minors ~~13~~ 12 years of age or younger at all times. Minors who are ~~14~~ 13 years of age or older who are enrolled in overnight camps may have designated free (unsupervised) periods, provided that the free time and associated risks were noted in the informed consent documents signed by the parent or legal guardian and that clear and specific instructions are given to the Program Participants regarding permitted activities and locations during the unsupervised periods.
- F. **One-On-One Contact ~~Prohibition:~~ During Youth Program operations, Program Staff will neither engage in nor allow one-on-one contact with Program Participants.** **Restrictions:** One-on-one contact consists of in person contact or any form of communication between any minor and an adult (who may be Program Staff or an adult Program Participant or another Program Participant's parent or legal guardian), without at least one other authorized adult being present. An authorized adult is a Director, PIC, YP supervisor, or other individual who has a background clearance and received the training mandated by this rule, or a parent or legal guardian (or designee).

The ~~prohibition~~ following restrictions on ~~One-on-One~~ contact ~~applies~~ apply to ~~contact between any adult Program Participant and any minor Program Participant.~~ Youth Programs:

1. Directors will plan their Programs to eliminate or minimize one-on-one contact.
2. Program Staff will avoid one-on-one contact with minor Program Participants when possible to do so.
3. Program Staff will not initiate or continue one-on-one contact with any minor Program Participant at times when the Program is not in session or after the Program has terminated. This prohibition on one-on-one contact outside of the Youth Program does not apply where the minor Program Participant is a close family member of the adult or the adult has a previously existing personal relationship with the family of the Program Participant, and the parent or legal guardian is aware of the one-on-one contact.

G. **Restrictions for Overnight Programs:** An overnight program is defined as any Youth Program which includes one or more periods of more than 16 hours in which the Program Participants are not returned to the physical custody of their parent or legal guardian (or designee). The following restrictions apply with respect to overnight programs:

1. NMSU will not sponsor overnight Youth Programs for minors under age ~~11~~ 11. Youth Programs may seek a waiver of this age restriction, as provided in this rule.
2. ~~Youth Programs may not utilize~~ The use of off-campus lodging ~~except upon~~ for Youth Programs must be indicated on the Registration form and requires approval of the relevant Dean or Campus President. Parents must be informed and consent to the lodging arrangements for overnight events or programs.
3. ~~Minor Program Participants must not be housed in enclosed sleeping quarters staff who serve as overnight chaperones must be at least 25 years of age. All overnight programs require at least one chaperone who remains on premises at the overnight facility with adult Program Participants or Program Staff.~~
4. ~~Minor Program Participants must not be housed in enclosed sleeping quarters with other the~~ minor Program Participants ~~who are~~. Overnight programs with more than one year older (based on age not calendar birthday). For example, minors who have reached their 14th birthday must not be placed in enclosed sleeping quarters with those who have reached their 16th birthday. The Director is responsible for providing a rooming list to Conference Services that complies with this rule. This rule does not apply to Programs using bunk house style lodging where at least two adult chaperones are staying in the same room as the 8 minor Program Participants.
5. ~~3. All overnight programs must~~ will have at least two ~~adults who are at least 25 years of age to serve as overnight chaperones and who will remain on duty~~ premises at the overnight facility at all times, ~~except in the event of an emergency.~~ One of the overnight chaperones at each overnight facility must be ~~the~~ PIC and the others may be either Program Staff or NMSUPD-approved security officer(s). Where a Youth Program utilizes more than a single housing structure, these requirements must be satisfied for each structure.

H. **Transportation:** ~~No~~ Program Participants may not be transported in non-NMSU owned or leased vehicles unless the Program Director, or designee, has verified that each driver is in possession of a valid driver's license and proof of insurance, and has obtained a copy of both (digital photographs are acceptable copies). The Program Director will not allow Program Staff ~~or Program Participant may to~~ operate ~~an NMSU owned vehicle or cart, or~~ any vehicle ~~transporting Program Participants or other personnel, owned or leased by NMSU~~ unless the individual holds a valid NMSU permit issued by EHS&RM. ~~EHS&RM will issue such permits only upon a driver history screening, proof of a valid driver's license and compliance with training as set forth in NMSU Vehicle Use Procedures and NMSU Utility Cart Safety Program,~~ as authorized by Rule 16.30. This requirement does not apply to the operation of golf carts on golf course premises.

I. **Mandatory Reporting:** The Director is responsible for compliance with NMSU Rule 16.78 and all mandatory reporting laws. If any person, including a Program Participant or the Participant's parent or guardian, makes an allegation about conduct occurring during the Youth Program that might constitute child abuse under Rule 16.78, the Program Staff will immediately notify ~~NMSU PD~~ NMSUPD or an appropriate law enforcement authority with jurisdiction, ~~as required by law.~~ Any allegation of discriminatory conduct must be reported to the NMSU Office of Institutional Equity. In addition to the reporting as set forth above, and with respect to any allegation or information regarding any type of misconduct, injury or complaint, the Director must notify the cognizant vice president or dean who will determine what further reporting or action is appropriate or necessary. Any individual with responsibility for Youth Program operations who has questions about the applicability of this rule may consult with ~~NMSU PD~~ NMSUPD or UGC.

- J. **Facility Safety:** The PIC will regularly inspect the premises used for the Youth Program and monitor the Program activities to maintain a safe and hazard-free environment, as well as to mitigate any unsafe situation encountered. The PIC will immediately report any safety concerns to the Youth Program Director and if appropriate, NMSU emergency dispatch (911). The Director is responsible for having the issue corrected, and for identifying alternate sites for the Youth Program until the safety issue is corrected.

PART 6: —TRAINING FOR YOUTH PROGRAM STAFF

- A. **Mandatory Training:** Prior to the start of the Youth Program, all Youth Program Staff must demonstrate appropriate knowledge through satisfactory completion of the mandatory training course described below.
- B. **Course Delivery:** The NMSU PD is responsible for developing and making available a training course for NMSU Youth Program Staff and other NMSU constituents. The NMSU PD may establish requirements for satisfactory completion of the Youth Program course including a testing protocol and minimum passing score. The training course may be offered in a live or web-based format and may be taught or led by individuals approved by the NMSU Police Chief.
- C. **Course Content:** The NMSU Police Department will consult with appropriate subject matter experts within the NMSU administration regarding training course content. The educational training course will ~~cover~~include the following topics:
- ~~1. NMSU policies requiring non-Prohibition on~~ discriminatory, ~~ethical and respectful~~ conduct
 - ~~1.~~ reporting and disability and medical accommodation requirements.
 - ~~2.~~ Responding to misbehavior such as bullying or harassment.
 - ~~2-3.~~ Appropriate action and reporting requirements for suspected child abuse and ~~-sexual misconduct.~~
 - ~~3.~~ appropriate action and reporting related to suspected child abuse or sexual misconduct
 - ~~4.~~ generalGeneral safety, first aid and emergency response procedures
 - ~~5-4.~~ responding in the event of a (including serious injury response).
 - ~~6-5.~~ safetySafety requirements relating to transportation of program participants.
 - ~~7-6.~~ prohibition ofAvoiding one-on-one contact with ~~a minor~~minors.
 - ~~8-7.~~ Other risk avoidance and safety information related to the specific activity type and location ~~of specific Youth Programs (e.g. water safety, heatstroke danger, concussion monitoring)~~
 - ~~9.~~ responding to misbehavior such as bullying or harassment
- D. **Training Records and Certification:** The training course instructor will document satisfactory completion of the training course by (1) issuing a written and signed certification of completion to individual participants and (2) delivery of a copy of the course materials and the record of attendance and successful completion to CLPD within 5 business days after the course is completed. The Director will obtain a copy of the written certification from individual Program Staff or will obtain written verification of completion from the course instructor or from CLPD, and will then verify (through the Youth Program Confirmation and Attestation form submitted to SAEM to complete the registration) that all Program Staff have successfully completed the mandatory training course. Directors must verify compliance with this rule prior to commencing operation of a Youth Program, and must maintain the records documenting compliance for a period of three years from the end date of the Youth Program.
- E. **Certification Duration:** Youth Program training certifications will be valid for a 12 month period from the date of the training course.

PART 7: CRIMINAL BACKGROUND CHECKS

- A. **Mandatory Clearance:** A criminal background check must be performed, and each individual Program Staff cleared, prior to any direct involvement with the Program Participants. Any individual who refuses to consent to a background check or who does not obtain clearance from NMSU Human Resource Services (HRS) is not permitted to communicate with or have any direct involvement with Program Participants. Program sponsors must pay for the cost of the background checks.
- B. **Scope of Review:** The criminal background check review will encompass only felony and misdemeanor criminal convictions and pending criminal charges. Clearance may be denied, in the sole discretion of NMSU, for any individual who is determined to have a disqualifying criminal conduct history. HRS will make the final

determination as to whether information obtained during a criminal background check precludes an individual from serving as Program Staff, or warrants restrictions on the individual's participation.

- C. **Background Check Process:** HRS is responsible for managing the criminal background check clearance process. The process includes the following steps:
1. The Directors will provide an approved criminal background check consent form (which will include legally required notifications), to each prospective Program Staff, and will collect and submit the completed and signed forms to HRS to initiate the background check, together with an index number to which costs will be assessed. Consent and notification forms are available from the [HRS Website](#).
 2. HRS will order the criminal background reports and will issue clearances to the Director when deemed appropriate. HRS will seek to issue most clearance determinations within 10 business days after receipt of the consent forms, however, a longer period may be required for reports which contain adverse information.
 3. In the case where a criminal background report contains information upon which a clearance might be denied, before making that determination, HRS will notify the individual in writing and provide a copy of the report and all legally required notifications (pursuant to the Fair Credit Reporting Act). The individual will be afforded the opportunity to explain any negative information during the 5 business days after notification. Thereafter, HRS will make a final clearance decision.
 4. HRS will notify both the Director and the individual of the final clearance decision, and in cases where no clearance is issued or the clearance is restricted, HRS will provide the individual with legally required notifications (pursuant to the Fair Credit Reporting Act).
- D. **Post-Clearance Criminal Charges:** Any individual serving as Program Staff who is arrested for or charged with a crime after receiving a criminal background check clearance must notify the HRS immediately and cease to participate in any Youth Program unless and until further clearance is given.
- E. **Clearance Duration:** A criminal background check clearance will remain valid for ~~12 months~~5 years from the date it completed, unless subsequent events trigger additional review as determined in the discretion of HRS.

PART 8: RULE EXCLUSIONS

Minors may be present on the NMSU property under a variety of circumstances that do not involve participation in NMSU sponsored Youth Programs as defined by this rule. The following events, activities and circumstances are excluded from this rule:

- A. **Enrollment in Academic Courses:** Enrollment and participation in credit bearing academic courses, including regular and dual credit enrollment at NMSU. (Note: minors may be barred from enrollment in certain courses where NMSU has determined that the course content and activities are inappropriate or illegal for minors).
- B. **NMSU Recruitment Programs:** Programs which are part of NMSU's official recruitment and orientation events for high school ~~juniors and seniors~~students (e.g. Aggie Experience; Aggie Orientation).
- C. **Enrolled Student Events:** Participation in NMSU programs open only to fully admitted and enrolled students.
- D. **Accompanied ~~By~~ Responsible Adult:** Events, programs and activities where minors are accompanied by a parent, legal guardian or other responsible adult as designated by the parent or legal guardian and the minor remains under the supervision and control of the responsible adult at all times. ~~Programs offered for groups of students from public or private schools, where the participants are accompanied and supervised by teachers or staff from their school, are covered by this exclusion.~~
- E. **Events and Facilities Open ~~To~~ Public:** NMSU assumes no responsibility for monitoring the age or for supervising or otherwise providing for the safety of minors who attend NMSU events or use NMSU facilities that are advertised as open to the public, not specifically offered for minors, and which do not require individual registration (e.g. athletic events). Parents and legal guardians of minors who allow the minors to attend such events or to otherwise come on to NMSU controlled property unattended without adult supervision assume all risks and full responsibility for ~~the~~their safety and wellbeing ~~of those minors~~. The university reserves the right to exclude from its property any unattended minors under the age of 14, and may exclude any individual at any age under Rule ARP 16.21.

F. Private Programs: Programs conducted by private entities which are not subject to the governance of NMSU are not subject to this rule. Private Programs are subject to these restrictions:

1. Any private entity conducting a programs for minors using NMSU facilities under a rental or site use agreement must not make any representation that would suggest that the program is operated or sponsored by NMSU and may not use any NMSU logo or trademark in publicizing the program.
2. ~~Neither NMSU employees may not rent or otherwise use, nor any entity controlled by an NMSU facilities foremployee, may operate a private youth programs. This rule does not apply to program on NMSU controlled property.~~
3. ~~NMSU employees who operate, control or work with privately sponsored off campus programs for minors must take care to ensure that are conducted without use of NMSU's NMSU facilities, name, trademarks or other resources; however, employees involved are not utilized in connection with such programs must exercise care to ensure the private camp and that no affiliation association with NMSU is in any manner suggested. If publicity about such programs will include a statement of the employee's relationship to NMSU, the communication should also include an explicit statement that the Youth Program is not sponsored by or associated with NMSU.~~

PART 9: PROCESS TO REQUEST WAIVER OF RULE WAIVERS AND (EXCEPTIONS)

Each NMSU campus president is authorized to grant an exception to all or part of the requirements of this rule, based on reasonable justification and after due consideration of risk factors. Any exception must be documented by written and signed memorandum.