

6.17 Anti-Nepotism and Avoidance of Personal Conflicts of Interest in Hiring and other Personnel Actions v110819-2

Part 1: Purpose

NMSU's objective is to employ qualified persons and to ensure objective supervision, in part by avoiding or managing conflicts of interest created by Relationships. This rule is guided in part by state law prohibiting and penalizing Nepotism for elected and appointed public officials. (NMSA 1978 §§10-1-10 and 11) At NMSU, the anti-nepotism rule is broadened to require management and supervisors to also address personal conflicts of interest created by Relationships, as defined herein. *Amorous relationships are addressed in ARP 3.13 – Conflicts of Interest Arising from Consensual Relationships (<https://arp.nmsu.edu/3-13/>)*

Part 2: Definitions

- A. **Nepotism:** The bestowal of favoritism in the workplace based on Relationship.
- B. **Relationship or Related:** For purposes of this rule, and consistent with ARP 3.02 Part 2 E. and ARP 8.47 , Relationship or Related includes the following:
 - 1. Immediate Family, defined as spouse, a domestic partner as defined in, a child, parent or legal guardian, a sibling, grandparent, or a grandchild. Such familial relationships created by law are also included (e.g. adoptive, step, surrogate, and the legal spouses or domestic partners of the family members.
 - 2. Personal friendships (Amorous relationships are addressed at <https://arp.nmsu.edu/3-13/>);
 - 3. Business partners and professional associates with whom one regularly works.

Part 3: Rules to Avoid Nepotism and Personal Conflicts of Interest

Persons Related to each other may be employed at NMSU within the conditions specified in this rule. Those conditions are meant to promote objective employment decisions, while also permitting the disclosure and management (where feasible) of potential or actual personal conflicts of interest based on Relationship. Additional laws, regulations or contract provisions may also apply; the university will adhere to the strictest rule, law or provision. Depending upon the nature of the conflict, the work unit, or the type of employment, management of the conflict may not be feasible. In such a case, one of the employees involved in the conflict of interest will be subject to discharge in accordance with applicable university policy and procedures.

- A. **Scope of Application:** This rule applies throughout the NMSU system for all employment classifications (e.g. regular and temporary faculty, staff and students, including post docs, work-study and graduate or teaching assistants), as well as for all types of volunteer affiliates (See ARP 2.55 – NMSU Recognition of Affiliated Individuals).

B. Avoidance of Potential and Actual Conflicts of Interest: The following rules apply to avoid personal conflict of interests in hiring and other personnel actions:

1. NMSU employees will not hire, supervise, evaluate or otherwise participate in decisions affecting the employment or volunteer status of individuals with whom they have a Relationship.
2. NMSU employees will not work under circumstances which place the employee in a reasonably foreseeable conflict between the interests of the university and that of an individual with whom the employee has a Relationship.
3. A principal investigator overseeing a multi-disciplinary sponsored research project may not supervise the research work of any individual with whom they have a Relationship, even when the individual works in a different academic department.
4. NMSU faculty and other researchers must not permit Relationships with individuals employed elsewhere to affect adversely NMSU's opportunities to conduct sponsored research.
5. The direct reports to a supervisor must not hire, supervise, evaluate or otherwise participate in decisions affecting the employment or volunteer status of individuals who have a Relationship with the supervisor. For example, a supervisor's child, girlfriend, brother or parent is not permitted to work for someone who reports directly to them.
6. No faculty member, department chair, dean or other administrative official may vote, make recommendations, or in any other way participate in the decision of any matter that may materially affect the appointment, tenure, promotion, salary, or any other status or interest of an individual with whom they have a Relationship.
7. No staff or other non-faculty employee may supervise, vote, make recommendations, or in any other way participate in the decision of any matter that may materially affect the appointment, tenure, promotion, salary, or other status or interest of an individual with whom they have a Relationship.

Part 4: Roles and Responsibilities for Disclosure and COI Management

For amorous relationships, see ARP 3.13 – COI Arising from Consensual Relationships. Employees may report Relationships as required by this rule without fear of retaliation. Alleged retaliation will independently be investigated, and if substantiated, constitutes cause for disciplinary action up to and including termination.

- A. **Employee or Prospective Employee:** An employee or prospective employee Related to a supervisor is responsible for reporting the Relationship to the next level supervisor or to the assistant vice president of human resource services.
- B. **Any Party:** A person privy to information indicating that NMSU employees who work together have a Relationship may report the Relationship to a responsible supervisor, to Human Resource Services (HRS) or to Audit Services.

C. Supervisor:

1. Supervisors are responsible for managing or otherwise addressing perceived and reported personal conflicts of interest, in coordination with their dean, vice president or equivalent official. If a conflict of interest is unavoidable within the unit, the supervisor should consult with the assistant vice president of human resource services or designee to explore the potential for transfer or other options available within NMSU.
2. Supervisors are responsible for reporting alleged violations of this policy (non-disclosed and non-managed COI's) to their dean, vice president or equivalent official, who will consult with the assistant vice president of human resource services.
3. Supervisors are responsible for disclosing their own Relationships, including consensual relationships (*See ARP 3.13*) which may present a conflict of interest to their dean, vice president or equivalent official.

D. Faculty: By virtue of the position of authority they have in relation to students, faculty are responsible for disclosing Relationships, including consensual relationships (*See ARP 3.13*). They are also responsible for working with their department head and dean to manage (when possible) potential and actual conflicts of interest.

E. Dean, Vice President or Equivalent Official: The dean, vice president or equivalent official, in consultation with the assistant vice president of human resource services is responsible for addressing and resolving situations of actual or perceived nepotism and conflicts of interest based on Relationships, including inappropriate consensual relationships (*See ARP 3.13*). If a personal conflict of interest is not manageable, the dean, vice president or equivalent official should consult with the assistant vice president of human resource services or designee to consider options available beyond the work unit. The dean, vice president or equivalent official will document, in memo form, all perceived and reported conflicts of interest and the solutions to manage them and send to the assistant vice president of human resource services. *See Section G. below.*

F. AVP-HRS and CAE: Reports from third parties to HRS or to Audit Services regarding alleged Nepotism or a personal conflict of interest arising from a supervisor in a Relationship will be subject to confidential internal investigation. The chief audit executive (CAE) and the assistant vice president of human resource services (AVP-HRS) will confer on each case in order to maintain consistency in the standards of review and for consistency in the application of corrective or disciplinary action when the facts substantiate a violation of this rule or other applicable policy, law or contract provision.

G. Asst VP - HRS and Provost: After review of the documentation received from the dean, vice president or equivalent officials, the assistant vice president of human resource services or designee may refer specific matters of concern for additional review to the provost (faculty in the academic units and community colleges) or to the president (all other personnel). The decision by the provost or by the president relating to the disposition of a personal conflict of interest is final.