

3.80 Prohibition of Bullying, Hazing and other Hostile Misconduct

A. Policy Overview

New Mexico State University ~~promotes a safe~~ is committed to fostering a welcoming and inclusive environment ~~wherein which all~~ students, faculty, staff and visitors ~~may reside on campus, participate in university sponsored activities~~ demonstrate respect and be members of organizations recognized by NMSU without compromising health, safety, or wellness. It is ~~therefore the University's policy to prohibit any act or omission which constitutes~~ civility toward one another. Such an environment is essential to achievement of the university's mission. Bullying, hazing, ~~bullying or~~ and other forms of hostile misconduct, as well as have no place within a community of scholars.

New Mexico State University does not permit or tolerate hazing, bullying, or other forms of hostile misconduct, nor retaliation against persons who report misconduct such misconduct. Some forms of such misconduct may violate the law; however, this policy also addresses misconduct which is not necessarily unlawful. This policy authorizes the University administration to adopt and amend rules and take other necessary actions to implement this policy.

This policy will be interpreted and implemented consistent with the rights to academic freedom and freedom of expression and will not be used to undermine a supervisor's reasonable management of the work unit. This policy, and the rules adopted pursuant to this policy. In the event an allegation of hazing, bullying, hostile misconduct, authorization, do not create individual or group legal rights, whether contractual or retaliation is substantiated after objective investigation, appropriate corrective or disciplinary action will be taken to ensure otherwise, that the offensive behavior does do not recur.

B. Definitions

- ~~1. **Bullying.** "Bullying" is an act or omission that intimidates or mistreats a person, typically a person perceived to be weak or vulnerable.~~
- ~~2. **Hazing.** "Hazing" is an act committed by one or more individuals, on or off campus, where the following apply:
 - ~~a. The act was committed in connection with student or employee status or in connection with an initiation into, an affiliation with, or the maintenance of membership in, any organization. For the purpose of this policy, "organization" means an intercollegiate or intramural athletic team; chartered student organization; or other association, order, society, corps, cooperative, club, department, unit, division or similar group that is officially affiliated with the university and whose membership consists primarily of enrolled students or employees of the university; and~~~~

b. ~~The act creates unreasonable risk of emotional or physical harm, or causes actual physical harm, mental duress or degradation, or interferes with a person's academic endeavors or progress, or work environment.~~

3. ~~**Hostile Misconduct.** "Hostile Misconduct" is an act or failure to act, which is sufficiently severe, pervasive or persistent so as to interfere with or limit a person's ability to participate in academic opportunities or activities, or to work productively in the workplace. The hostile misconduct prohibited by this policy need not be based on any protected class, which is similarly prohibited by the university's anti-discrimination policies.~~

4. ~~**Retaliation.** "Retaliation" for purposes of this policy is retribution in any form against a person who has in good faith: (a) opposed the misconduct prohibited by this policy; (b) filed a complaint of hazing, bullying or other hostile misconduct with their supervisor, the Office of Human Resource Services department or other appropriate office with jurisdiction; (c) assisted with or participated in an investigation, proceeding or hearing related to enforcement of this policy. Retaliation in and of itself, if substantiated by investigation, will result in disciplinary action, up to and including termination.~~

~~**C. Discriminatory Misconduct/Report to OIE**~~

~~An act of hazing, bullying or other hostile misconduct may also constitute illegal discrimination if it is based upon age, ancestry, color, mental or physical disability, gender, genetics, serious medical condition, national origin, race, religion, sexual orientation, gender identity, spousal affiliation, or veteran status. In this event, it shall be reported to the Office of Institutional Equity for action exist under the university's anti-discrimination policies, which also prohibit retaliation.~~

~~**D. Hate Crimes/Report to NMSU Police**~~

~~An act of hazing, bullying or other hostility may also constitute a hate crime under the laws of New Mexico, and shall be reported to the NMSU Police Department for potential criminal investigation and prosecution.~~

~~**E. Acquiescence Not a Defense**~~

~~It is a violation of this policy even if the recipient of the misconduct consented to or acquiesced in the hazing, bullying or other hostile act or omission.~~

~~**F. Examples**~~

~~**Examples of hazing, bullying and other hostile misconduct may include, and are not limited to:**~~

- ~~1. Verbal acts and name calling; graphic and written statements, which may include the use of cell phones or the internet;~~
- ~~2. Threats of, or actual harm or humiliation;~~
- ~~3. Physical abuse, such as whipping, beating, branding, pushing, shoving, or tackling, use of physical restraints, etc;~~
- ~~4. Forced physical activity, such as consumption of food, liquor or drugs, or sleep deprivation;~~
- ~~5. Theft and/or destruction of property under any circumstance;~~
- ~~6. Yelling, screaming, or calling members (prospective or actual) demeaning names, or restricting normal routine social interaction;~~
- ~~7. Engaging in behavior that a reasonable, similarly situated, person would consider humiliating and or degrading to others;~~
- ~~8. Forcing, requiring or endorsing new members to violate university policies, organization/association bylaws, team rules and/or any local, state, or federal law.~~

~~G. Exclusions~~

~~This policy is not intended to prohibit the following conduct:~~

- ~~1. Customary public athletic events, contests or competitions as sponsored by the University;~~
- ~~2. Activity or conduct that furthers the goals of NMSU educational curriculum, extracurricular program, military training program, or other official university function or program.~~

~~H. Duty to Report~~

~~Prevention of hazing, bullying, hostile misconduct and retaliation is the responsibility of every member of the university community. Each organization, association, athletic team, department, unit, division, as well as each individual, has the obligation to report incidents that are believed to be associated with hazing, bullying, hostile misconduct, or retaliation, to the Office of Student Judicial Services, the Office of Institutional Equity, the NMSU Police Department, or other university supervisor or official independent from the offensive conduct.~~

~~I. Prompt Investigation and Corrective Action~~

~~All alleged incidents of hazing, bullying and other non-discriminatory hostile misconduct or retaliation addressed by this policy will be taken seriously, shall be investigated and when warranted, corrective or disciplinary action will be taken.~~

- ~~1. An objective, confidential investigation will be conducted by the supervisor, in consultation with the Office of Human Resource Services, into each complaint received.~~

- ~~2. The actions or omissions subject of a complaint and substantiated by investigation will be assessed based on the totality of the circumstances, and will involve making a determination whether the alleged hostile misconduct was sufficiently severe, pervasive or persistent such that a similarly situated reasonable person would be significantly and adversely impacted in his or her ability to benefit from the educational or work opportunities provided by the institution.~~
- ~~3. Substantiated violations will result in administrative, civil and/or criminal sanctions to the offending employee, student or student organization.~~
- ~~4. **One or more of the following offices or processes may be involved in affording relief to the person who has experienced the hazing, bullying, hostile misconduct or retaliation:** the Employee Assistance Program, Counseling Center, Employee Health Services, Student Health Center, the Office of Student Judicial Services, the administrative review process of the Department of Campus Activities, the Social Misconduct Review Board of the Department of Athletics, the Office of Housing and Residential Life, the appropriate supervisor in coordination with the Office of Human Resource Services in accordance with the applicable NMSU grievance and /or disciplinary process, as well as through the appropriate local, state, and/or federal law enforcement agencies.~~