

6.17 ~~Anti-Nepotism and~~ Avoidance of Nepotism and Personal Conflicts of Interest in Hiring and other Personnel Actions ~~v110819-2v011220~~

~~Part~~**PART 1: Purpose**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.~~ eliminate the use of non-merit based factors, to include familial, personal or business relationships, in making hiring/personnel decisions. This rule is guided in part by the state's personnel administration which prohibits the hiring, promotion, or direct supervision by a 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 agency employee by a person who is broadened to require management and supervisors to also address related by blood or marriage within the third degree; as well as by university policy requiring disclosure of personal conflicts of interest created by Relationships, as defined herein. Amorous relationships, for management or other action to avoid the conflict.

PART 2: RELATIONSHIPS WHICH CREATE A PERSONAL CONFLICT OF INTEREST

Persons Related to each other may be employed at NMSU, conditioned upon compliance with this rule. The following types of Relationships are addressed in ARP 3.13 – Conflicts of Interest Arising from Consensual Relationships (<https://arp.nmsu.edu/3-13/>) presumed to create a personal conflict of interest. For purposes of this rule, family is defined more broadly than in ARP 3.02 Part 2 E. and ARP 8.47.

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 **Familial Relationships:** ~~Related~~ includes the following:

A. Immediate Family, defined as spouse, a members related within the third degree: Spouse or domestic partner as defined in, a child, (ARP 8.03), parent or legal guardian, a child, sibling, aunt/uncle, niece/nephew, grandparent, or a grandchild, great grandparent or great grandchild. Such familial relationships created by law are also included (e.g. adoptive, or step parent; mother/father in law; half or step siblings).

B. **Personal**, surrogate, Relationships: Relationships presumed to create a personal conflict of interest include:

1. Intimate Partners, defined as a person with whom the employee presently has, or has had in the past, a romantic or sexual relationship.

~~1.~~ Household Members, defined as persons who live in the same residence with a reciprocal emotional relationship, including foster children and the legal spouses or domestic partners of the family members. wards. This does not include persons sharing a facility or residence (such as a boarding house), and there is no emotional or intimate relationship.

~~B.2. Personal friendships (Amorous relationships are addressed at <https://arp.nmsu.edu/3-13/>);~~

~~C. Business partners and professional associates Partner, defined as a person with whom one regularly works.~~

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

~~3. Persons Related to each other may be employed at NMSU within the conditions specified shares an ownership interest in this a business or commercial venture.~~

PART 3: RULES

~~This rule. Those conditions are meant to promote promotes objective employment decisions, while also ~~permitting~~ requiring the disclosure and management (~~where~~ when 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, timing and circumstances relating to the disclosure, the work unit, or ~~the~~ type of employment, management of the conflict or additional compliance requirements, it may not be feasible: to manage certain personal conflicts of interest. In such ~~a case~~ cases, one or more of the employees involved in the conflict of interest will be subject to ~~discharge in accordance with applicable university policy and procedures.~~ separation from service.~~

A. **Scope of Application:** This rule applies throughout the NMSU system for all NMSU officials and 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 nepotism and personal conflict of interests in hiring and other personnel actions:

1. NMSU officials and 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~~ supervisors will not ~~work under circumstances which~~ place ~~the employee~~ their employees or volunteers in a reasonably foreseeable conflict between the interests of the university and ~~that~~ the personal needs of ~~an individual with whom the employee has a Relationship.~~ supervisor. (ARP 3.08)
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. (ARP 3.11 Part 3 B.)
4. NMSU faculty and other researchers must not permit Relationships with individuals employed elsewhere to affect adversely NMSU's opportunities to conduct sponsored research. (ARP 3.11 Part 3 C.)
5. The direct reports to a supervisor ~~must~~ will not hire, supervise, evaluate or otherwise participate in decisions affecting the employment or volunteer status of individuals who have a Relationship with ~~the~~ their supervisor. For example, a supervisor's child, girlfriend, brother Intimate Partner, sibling or parent is not permitted to work for someone who reports directly to ~~them~~ the supervisor.

6. No faculty member, department chair, dean or other ~~administrative official~~academic administrator 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~~

~~C. 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 **Non-Retaliation**: An official, employee or volunteer who reports a Relationship, or participates in any investigation as may be necessary, is protected from retaliation. Allegations of retaliation will independently be investigated, and if substantiated, constitutes cause for disciplinary action, up to and including termination.~~

~~Employee or~~ **PART 4: ROLES AND RESPONSIBILITIES**

A. **Prospective Employees**: Prospective employees with a Relationship to any supervisor in a department in which they are applied for employment will divulge such Relationship during the hiring process.

A.B. **Employee**: An employee or prospective employee Related to a supervisor is responsible for disclosing or reporting, as applicable, the Relationship to the next level supervisor or to the assistant vice president of human resource services for appropriate administrative action.

B.C. **Any Party**: A person privy to information indicating ~~that NMSU employees who work together have~~ a Relationship may, and non-compliance with this rule, should report the Relationship to a responsible supervisor, to Human Resource Services (HRS) ~~or~~, to Audit Services. Alternatively, such a report may be made using the university's confidential reporting line, EthicsPoint.

C.D. **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.

- 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.E. 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.F. 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.G. 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.

H. 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.

Details

Scope: NMSU System

Source: ARP Chapter 3 | Ethics, Equity and Equal Opportunity

Rule Administrator: AVP Human Resource Services

Last Updated: Not Available

Related

Cross-References:

ARP 3.13 – Conflicts of Interest Arising from Consensual Relationships

ARP 3.08 – Requests Made to Subordinates

ARP 3.11- Conflicts of Interest/Commitment in Sponsored Activities

Revision History:

2017 Recompilation, formerly Rule 3.20.32

G.

6.17 Avoidance of Nepotism and Personal Conflicts v011220

PART 1: PURPOSE

NMSU’s objective is to eliminate the use of non-merit based factors, to include familial, personal or business relationships, in making hiring/personnel decisions. This rule is guided in part by the state’s personnel administration which prohibits the hiring , promotion, or direct supervision by a state agency employee by a person who is related by blood or marriage within the third degree; as well as by university policy requiring disclosure of personal conflicts of interest, for management or other action to avoid the conflict.

PART 2: RELATIONSHIPS WHICH CREATE A PERSONAL CONFLICT OF INTEREST

Persons Related to each other may be employed at NMSU, conditioned upon compliance with this rule. The following types of Relationships are presumed to create a personal conflict of interest. For purposes of this rule, family is defined more broadly than in ARP 3.02 Part 2 E. and ARP 8.47.

- A. **Familial Relationships:** Family members related within the third degree: Spouse or domestic partner ([ARP 8.03](#)), parent or legal guardian, child, sibling, aunt/uncle, niece/nephew, grandparent, grandchild, great grandparent or great grandchild. Such familial relationships created by law are also included (e.g. adoptive or step parent; mother/father in law; half or step siblings).
- B. **Personal Relationships:** Relationships presumed to create a personal conflict of interest include:
 - 1. Intimate Partners, defined as a person with whom the employee presently has, or has had in the past, a romantic or sexual relationship.
 - 2. Household Members, defined as persons who live in the same residence with a reciprocal emotional relationship, including foster children and legal wards. This does not include persons sharing a facility or residence (such as a boarding house), and there is no emotional or intimate relationship.
 - 3. Business Partner, defined as a person with whom one shares an ownership interest in a business or commercial venture.

PART 3: RULES

This rule promotes objective employment decisions, while also requiring the disclosure and management (when feasible) of 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, timing and circumstances relating to the disclosure, the work unit or type of employment, or additional compliance requirements, it may not be feasible to manage certain personal conflicts of interest. In such cases, one or more of the employees involved in the conflict of interest will be subject to separation from service.

- A. **Scope of Application:** This rule applies throughout the NMSU system for all NMSU officials and 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 (*ARP 2.55 – NMSU Recognition of Affiliated Individuals*).
- B. **Avoidance of Potential and Actual Conflicts of Interest:** The following rules apply to avoid nepotism and personal conflict of interests in hiring and other personnel actions:
1. NMSU officials and 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 supervisors will not place their employees or volunteers in a reasonably foreseeable conflict between the interests of the university and the personal needs of the supervisor. (*ARP 3.08*)
 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. (*ARP 3.11 Part 3 B.*)
 4. NMSU faculty and other researchers must not permit Relationships with individuals employed elsewhere to affect adversely NMSU's opportunities to conduct sponsored research. (*ARP 3.11 Part 3 C.*)
 5. The direct reports to a supervisor will not hire, supervise, evaluate or otherwise participate in decisions affecting the employment or volunteer status of individuals who have a Relationship with their supervisor. For example, a supervisor's child, Intimate Partner, sibling or parent is not permitted to work for someone who reports directly to the supervisor.
 6. No faculty member, department chair, dean or other academic administrator 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 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.
- C. **Non-Retaliation:** An official, employee or volunteer who reports a Relationship, or participates in any investigation as may be necessary, is protected from retaliation. Allegations of retaliation will independently be investigated, and if substantiated, constitutes cause for disciplinary action, up to, and including, termination.

PART 4: ROLES AND RESPONSIBILITIES

- A. **Prospective Employees:** Prospective employees with a Relationship to any supervisor in a department in which they are applied for employment will divulge such Relationship during the hiring process.

- B. **Employee:** An employee or prospective employee Related to a supervisor is responsible for disclosing or reporting, as applicable, the Relationship to the next level supervisor or to the assistant vice president of human resource services for appropriate administrative action.
- C. **Any Party:** A person privy to information indicating a Relationship, and non-compliance with this rule, should report the Relationship to a responsible supervisor, to Human Resource Services (HRS), to Audit Services. Alternatively, such a report may be made using the university's confidential reporting line, EthicsPoint.
- D. **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.
- E. **Faculty:** By virtue of the position of authority they have in relation to students, faculty are responsible for disclosing Relationships, including consensual relationships (*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.
- F. **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.*
- G. **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.

- H. **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 of 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.
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Scope: NMSU System

Source: ARP Chapter 3 | Ethics, Equity and Equal Opportunity

Rule Administrator: [AVP Human Resource Services](#)

Last Updated: Not Available

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