



# **Interim Freedom of Expression and Respectful Campus Policy**

New Mexico Tech  
Office of the President  
November 2, 2020

Campus-wide Administrative Policy  
New Mexico Institute of Mining and Technology  
Socorro, New Mexico 87801

The scope of this policy applies to NMT Regents, administrators, faculty, staff, students, volunteers and all other individuals or parties using NMT buildings, grounds, and property.

Responsible University Office:

- Office of the President

Effective Date: November 2, 2020

Date Revised:

Policy Owner(s):

- Student Life
- Administration and Finance
- Academic Affairs
- Dean of Students

Policy Contact(s)

- Vice President for Student Life
- Dean of Students

## **I. General**

As a public education and research institution that exists for the express purposes of education, research, and public service, New Mexico Institute of Mining and Technology (hereafter referred to as New Mexico Tech) is dependent upon the unfettered flow of ideas, not only in the classroom and the laboratory but also university sponsored activities. This policy applies to all New Mexico Tech (NMT) property owned and controlled/operated by the university on or off-campus. NMT is committed to freedom of expression and open debate. New Mexico Tech does not attempt to shield people from ideas they may find unwelcome, disagreeable, or offensive. All members of the campus community are provided with the broadest possible latitude to speak, write, listen, challenge, and learn. Debate or deliberation may not be suppressed merely because the ideas put forth are thought by some, or even by most, to be offensive, unwise, immoral, or misguided.

Thus, the right to address issues of concern does not grant individuals license to make untrue allegations, to harass others, to violate confidentiality requirements, or to engage in other conduct that violates the law or University policy. A respectful environment is a necessary condition for success in teaching and learning, in research and scholarship, and in all other aspects of NMT's mission and values.

## **II. Protected and Unprotected Speech**

As a public institution of higher education, supporting and protecting freedom of expression is of central importance. New Mexico Tech also recognizes that the exercise of free expression must be balanced with the rights of others to learn, work, and conduct business. Speech activity that unduly interferes with the rights of others or the ability of the University to carry out its mission is not protected by the First Amendment and violates this policy.

Specifically, NMT follows the legal designations of protected and unprotected speech and First Amendment protections towards political, social, economic, educational, religious, and cultural ends. The Courts have identified certain categories of speech that may be regulated provided it is done evenhandedly. These include obscenity, defamation, fraud, incitement, fighting words, true threats, speech integral to criminal activity and child pornography.

### III. Forum Designations as Defined by Law

Regarding the right of individuals to express themselves in public settings and at public institutions, the law has identified three types of public forums: traditional public forums, designated or limited public forums, and nonpublic forums. Public colleges and universities can support the consistent, content-neutral enforcement of time, place, and manner requirements by defining in written policy the campus spaces that are treated as traditional, designated, and nonpublic forums (see Appendix 1 for NMT's Forum Assignments).

- A. **Traditional public forums** are open to all expression protected under the First Amendment. Public parks, sidewalks, and streets are typically treated as traditional public forums.
- B. **Designated/limited public forums** are spaces where the public college or university restricts the space to certain participants. These forums are subject to time, place, and manner requirements in regulating, without violating, an individual or group's free speech rights.
- C. **Nonpublic forums** are not open to public expression and are restricted to a particular purpose, such as departmental office spaces or on-campus housing. It is not lawful, for instance, to shout down a professor delivering a classroom lecture, or to hold a protest outside the private residence of a college or university employee.

### IV. Cornerstone Principles

There are important principles that apply to building a respectful campus that also fully support free expression. These include:

- A. **Cornerstone of Free Expression at New Mexico Tech:** New Mexico Tech is committed to tolerate all peaceful speech activities carried out upon the campus unless those activities destroy or materially damage property, materially disrupt other legitimate university activities, create a substantial health or safety hazard, or fall under the categories of unprotected speech.
  - 1) Legitimate university activities include teaching, research, and public service; all of the administrative operations supporting those activities; and the performance of all university approved educational, commercial, research, professional or other activities by public or private contractors, tenants, or permittees.
  - 2) A speech activity materially disrupts other legitimate University activities when a reasonable person is unable to effectively perform a legitimate university activity because of the speech activity taking place. Examples of when a speech activity may materially disrupt other legitimate university activities include, but are not limited to:
    - a) Conducting the speech activity at a volume that substantially disrupts the normal use of classrooms, offices, laboratories, and other University facilities or grounds;
    - b) Physically preventing persons from entering or leaving a building or premises;
    - c) Conducting a speech activity inside a building and not ending it at or before the close of the building's regular hours;
    - d) Destroying or materially damaging any property; or
    - e) Creating a substantial health or safety hazard.

## B. Cornerstone of a Respectful Campus

NMT's commitment to a respectful campus calls for promotion of an environment in which:

- 1) Individuals at all levels and in all units value each other's contributions and treat each other with respect.
- 2) Individuals in positions of authority serve as role models by promoting courtesy, civility, diversity, and respectful communication.
- 3) Individuals at all levels are allowed to discuss issues of concern in an open and honest manner, without fear of reprisal or retaliation.

## C. Cornerstone of Constructive Actions

In addition to the cornerstones above, the following constructive actions help contribute to a respectful campus:

- 1) Displaying personal integrity and professionalism;
- 2) Practicing fairness;
- 3) Demonstrating respect for individual rights as well as diversity and differences;
- 4) Being responsible and accountable for one's actions;
- 5) Emphasizing communication and collaborative resolution of problems and conflicts; and
- 6) Developing and maintaining confidentiality and trust.

## V. Prohibited Conduct

New Mexico Tech refers to any action or conduct that violates any federal or state law, public health orders, local ordinances, regulations, rule or policy, or any New Mexico Tech rules or policies (e.g. discrimination, harassment, destructive actions, bullying, etc.) as "Prohibited Conduct". Actions that are counter to a respectful campus, such as the destructive actions described below, will not be tolerated and should be reported. Conduct that occurs off-campus may be the subject of a report if it is likely to interfere with a respectful campus according to this policy. Perpetrators of destructive actions can face disciplinary action, up to and including termination, suspension, or expulsion. In certain instances, a single incident of a destructive action may be sufficiently severe that it can lead to disciplinary action.

**Bullying** - Bullying is defined by the University as sufficiently severe, persistent, or pervasive mistreatment directed at one or more individuals, which a reasonable person would consider to improperly interfere with the individual's (or individuals') work or school performance or participation. Differences of opinion, conflicts, or problems in relationships occasionally occur as a normal part of working or academic life and should not be considered bullying. Nor is it bullying for a supervisor to note an employee's poor job performance and potential consequences within the framework of University policies and procedures, or for a professor or academic program director to advise a student of unsatisfactory academic work and the potential for course failure or dismissal from the program if

uncorrected. The destructive actions known as bullying may include the following, when they rise to the level of the standard set forth above:

- A. **Verbal bullying** - oral, written, or electronic communications that include slandering or maligning of a person or persons; addressing abusive or offensive remarks to a person or persons; shouting at others in public or in private.
- B. **Non-verbal bullying** - directing threatening gestures toward a person or persons or invading personal space after being asked to move or step away.
- C. **Cyberbullying** - occurs over digital devices through text messaging and apps, or online in social media, forums, or gaming where people can view, participate in, or share content; includes sending, posting, or sharing harmful or false content about someone else; sharing personal or private information about someone else causing embarrassment or humiliation. (Some cyberbullying crosses the line into unlawful or criminal behavior.)
- D. **Physical bullying** - pushing, shoving, kicking, poking, tripping; or any form of physical assault or threat of physical assault; damage to a person's work area or property; damage to or destruction of a person's work product.
- E. **Anonymous bullying** - withholding or disguising one's identity while treating a person or group in a malicious manner, sending insulting or threatening anonymous messages, placing objectionable objects among a person's belongings. Threatening action toward a person's job or well-being; making threats, either explicit or implicit to the security of a person's job, position, or personal well-being.

Concerns over any form of bullying shall be addressed to the Dean of Students, Title IX Coordinator, or the Director of Affirmative Action/EEOC.

**Firearms-** It is unlawful and against university policy for anyone to carry a firearm on University premises except for:

- A. A peace officer;
- B. University security personnel;
- C. Student, Tech employee, other University-authorized personnel, other non-New Mexico Tech individual engaged in Army, Navy, Marine Corps or Air Force reserve officer training corps programs or state-authorized hunter safety training program;
- D. Individual conducting or participating in a University-approved program, class or other activity involving the carrying of a firearm; or
- E. Individual aged 19 years or older on University premises in a private automobile or other private means of conveyance, for lawful protection of the person's or another's person or property, pursuant to New Mexico State Statute 30-702.4.

As used in this policy, university premises means: (a) the buildings and grounds of a university, including playing fields and parking areas of a university, in or on which university or university-related activities are conducted; or (b) any other public buildings or grounds, including playing fields and parking areas

that are not university property, in or on which university-related and sanctioned activities are performed.

Destructive actions may also rise to the level of a criminal offense and such matter will be dealt with accordingly. Visitors or non-Tech constituents creating or participating in any prohibited conduct and destructive actions will be ordered to leave the premises or property owned or controlled by the university by the police or a person in charge of the property. Failure to comply will result in arrest for violation of appropriate state law(s) or local ordinance.

## **VI. Modes of Free Expression**

**A. Distribution and Posting of Literature and Signs:** Individuals or groups may petition, distribute non-commercial written material, hand out newspapers, or conduct speech acts.

- 1) Groups will not use the name New Mexico Institute of Mining and Technology and/or New Mexico Tech in any advertisement material, brochure, mailer or any similar item in a manner that infers that New Mexico Tech is a sponsor/co-sponsor or in any way affiliated with the user/Group. New Mexico Tech's name may only be used for reference of event location unless written "A New Mexico Tech official has granted approval."
- 2) The statement "This is not a function of New Mexico Tech" must appear in all newspaper and magazine ads, radio announcements, news releases, promotional and registration materials publicizing the event. All advertising and promotional materials must list prominently the names and phone numbers of Group contacts for obtaining additional information. New Mexico Tech may not be listed as an informational source.
- 3) Literature may be distributed hand-to-hand, through the use of tables, or by posting on designated bulletin boards and kiosks.
- 4) In-person distribution must be done without the touching of another person other than incidental contact.
- 5) Signage promoting or providing direction to an event does not require permission, provided the signage is posted no more than 24 hours prior to the event and is removed no later than 24 hours the day following the event. Signage for longer periods of time requires permission. Temporary signage must comply with NMT's Posting & Advertisement Policy (TBD) and must not cause damage. Individuals or sponsoring groups that cause any damage will be held accountable for such damage.
- 6) Materials shall not be affixed to any part of a university building or structure without permission from the Campus Police or the office that schedules the desired venue.
- 7) Posting on traffic signs, power poles, trees, landscaping, or automobiles belonging to others is not allowed.
- 8) Tables and chairs are allowed as long as they do not unreasonably interfere with pedestrian traffic, to include blocking ingress or egress. Individuals who have reserved a table through the Campus Police or the office that schedules the desired venue will be given priority.

**B. Group Speech Activities. Including Rallies, Parades and Demonstrations:**

- 1) Any group speech activity, regardless of the number of expected participants, may be coordinated through the Campus Police or the office that schedules the desired venue at the discretion of the organizers.
- 2) When planned activities are likely to draw 100 participants or more, notification to the Campus Police or the office that schedules the desired venue is required.
- 3) When planned activities necessitate road or parking lot closures or detours, or deny others access to or reasonable use of NMT property, permission is required from Campus Police.
- 4) Activities should be at least 25 ft. away from buildings entrances so not to unreasonably interfere with pedestrian traffic or block ingress and egress.

**C. Political Activities** - Political activities must be conducted in a manner that does not imply the university officially endorses or supports a particular candidate or position.

**D. Electronic Sound Amplification** - The use of electronic sound amplification equipment may not be used if it will reasonably interfere with classes or other academic activities. The use of electronic sound amplification may be limited or volume restricted at certain forums at certain times. Not all locations have access to power receptacles.

**E. Use of Chalk** - Chalk may be used on university premises as long as it is restricted to exterior concrete walkways. All chalk used must be of a temporary or removable nature. The university's maintenance schedules relating to university facilities will not be deferred to protect chalk.

**F. Symbolic Expression Requiring a Permit** - An individual or group who plans free expression activities that involve fire, weapons, or nudity must first obtain a permit from the Campus Police. The permit requirement is not intended to impede symbolic expression, but to protect the safety of the university community and property and to ensure compliance with applicable laws. For other types of symbolic expression that an individual or group believes might generate a safety concern, advance notice to the Campus Police is encouraged. Large or unsafe construction of symbolic structures are not permitted.

**G. Electronic Communication** (e.g. Email, Social Media) - Similar to public spaces, electronic communication may fall within a public, limited public, or non-public forum. Where a site owned, operated, or otherwise controlled by NMT is limited to certain members or subject matters, speakers must be authorized participants whose communications are germane to the stated subject matter. With regard to communications using electronic and other media, speakers should be aware of federal, state and university anti-discrimination laws and policies, and NMT's obligation to enforce such laws and policies.

**VII. Scheduling of New Mexico Tech Facilities**

A. Scheduling of university facilities for public forums and planned demonstrations is required for both indoor and outdoor activities since these types of activities have size, safety, and logistical concerns. In order to reserve the desired space and avoid conflicts with other users, group or individual reservations for such space must be made seven (7) days in advance with Campus Police or the

office that schedules the desired venue. Larger events with complex logistics and those with performers may need a longer lead time to ensure lease agreements and contracts are adequately reviewed and approved. In addition to the reservation, a “**Public Forum and Planned Demonstrations Routing Form**” must be completed and returned to Campus Police by 4:30 pm three (3) business days prior to the start date of the event in order to allow for proper distribution and notification of the event.

Scheduling does not operate as a process for approval based on content. Public forums and planned demonstrations will be scheduled on a first come first served basis for the requested location. Events of this nature will not be scheduled if there is a scheduling conflict or if the required resources are not available during the requested time to facilitate the event. The viewpoint expressed through the event is not a factor in scheduling. A decision made to not schedule an event may be immediately appealed to the NMT President or designee.

*This [Freedom of Expression and Respectful Campus Policy](#) and [Routing Form](#) for processing can be found at [Public Forums and Planned Demonstration Events](#)*

## B. Forum Designations

- 1) **Traditional Public Forums** - Open to all expression protected under the 1<sup>st</sup> Amendment
  - a. Lawns
  - b. Sidewalks
  - c. Centennial Plaza,
  - d. Macey Center Park
  - e. Geology Water Feature
  
- 2) **Designated/Limited Public Forums** – Spaces that are restricted to time place and manner
  - a. Macey Center
  - b. Fidel Center
  - c. Skeen Library (meeting rooms only)
  - d. Athletic Field
  - e. Gym
  - f. Golf Course Pavilion
  - g. Bureau of Geology Conference Room, Atrium & Courtyard
  
- 3) **Nonpublic Forums** – Spaces that are not open to public expression
  - a. Classrooms
  - b. Laboratories and Test Range
  - c. Department Offices
  - d. On Campus Housing
  - e. Student Activity Center
  - f. Residence Halls
  - g. Administrative Facilities

## C. Demonstrations on Campus



Demonstrations on campus can occur as a planned event or as an impromptu event. A planned demonstration on campus must be scheduled with University facilities through the appropriate procedures. Impromptu demonstrations are classified as a response or a reaction to some other action that is not planned and therefore cannot be prepared for. Scheduling does not apply to spontaneous impromptu demonstrations for which there is no prior promotion or organization. Impromptu demonstrations are limited to Traditional Public Forum areas.

## **VIII. Enforcement and Responsibilities**

A. **Violation of this Policy** - Any person violating this policy may be subject to:

- 1) Institutional disciplinary proceedings under the Student Code of Conduct if a student. Violations by faculty or staff will be referred to the appropriate department or academic unit as indicated by the Employee Handbook or Regulations Governing Academic Freedom and Tenure;
- 2) An order to leave the premises or property owned or controlled by the university by the police or a person in charge of the property; and/or
- 3) Arrest for violation of state law(s) or local ordinance.

### **B. Supervisor Responsibilities**

For employees, supervisors at all levels are responsible for addressing known indications of prohibited conduct and destructive actions in an appropriate, prompt, and fair manner. For these allegations, the supervisor should meet with the individual allegedly targeted by the prohibited behavior (e.g. bullying), as well as the individual accused of the prohibited conduct (e.g. bullying, discrimination). As a result of these meetings, if the supervisor determines there are sufficient grounds to justify a complaint of prohibited conduct, then the supervisor should address the destructive action through informal resolution or appropriate disciplinary action.

For prohibited conduct covered by other university policies, state or local laws, the supervisor should make an appropriate referral.

### **C. Informal Resolution**

It can be helpful to address certain prohibited conduct and destructive actions informally. In such cases, the alleged behavior may be brought to the attention of the impacted individual's supervisor or the alleged wrongdoer's supervisor. If the impacted individual is not comfortable reporting the prohibited conduct to a supervisor, the individual may report the actions to the supervisor's supervisor, the Director of Human Resources, the Director of Affirmative Action/EEOC or NMT's Title IX Coordinator. Informal resolution may include training or consulting with next level supervisors.

NMT has resources to help individuals with informal resolution and concerns, including:

1. Counseling and Advocates;
2. Ombudsman Services for faculty and staff;
3. Ombudsman Dispute Resolution Services for Graduate Students; and
4. Dean of Students Office for undergraduate students and Dean of Graduate Studies for graduate students.

#### **D. Formal Resolution**

If parties are dissatisfied with the informal resolution process, written requests for a formal resolution option as indicated in the Student Code of Conduct, Employee Handbook, and Regulations Governing Academic Freedom and Tenure.

#### **E. Appeal Process**

If parties believe the adjudicating body erred in their decision, the party would need to submit a written request for appeal and provide grounds justifying the appeal as specified in the appropriate policy. The Appellate Body or designee will initially review the written request for an appeal. They must determine if the criteria for "grounds for appeal" have been met. The request for appeal is either granted or denied. The Appellate Body does not conduct a de novo (new) hearing. If the appeal is granted, the appellate body will only review the points submitted in the written request for appeal. The case is considered resolved/final with the decision of the Appellate Body.

#### **F. Disciplinary Action**

Violations of this policy may lead to disciplinary or corrective action when they rise to the level of being sufficiently severe, persistent, or pervasive as to cause or create a hostile working or educational environment or unreasonably interfere with a person's work or school performance or participation. In these situations, appropriate sanctions will be administered by the related supervisor or adjudicating officer or adjudicating body in the above resolution processes.

Sanction/s may include, but not limited to restriction of future use of, or access to the campus; and reimbursement for damages.

#### **G. Reporting Prohibited Conduct and Destructive Actions**

All members of the University community may report prohibited conduct and destructive actions (not addressed by other policies) to a supervisor, the Director of Human Resources, the Director of Affirmative Action/EEOC, the Title IX Coordinator, or by contacting the NMT Campus Police.

### **IX. Security Risk Assessment**

Security Risk Assessment will be conducted by a Crisis Management Group which includes the Chief of Campus Police, the President, all VP's and such other individuals as may be requested by either the Campus Chief of Police or the President. Based on the assessment, the Crisis Management Group shall determine what actions or steps may be needed to maintain a safe and secure campus.

### **X. Costs of Services**

In the event organizers of activities pursuant to this Policy require or request services be provided by NMT, the organizers will be responsible for payment to NMT for such services. This includes but is not limited to specialized equipment such as PA systems, tables, chairs, etc., or specialized services such as alcohol requirements under state or federal law. Costs of security incurred to maintain the safety and security of NMT shall be assessed to the organizers at all times.

In situations where NMT agrees to cover certain fees and such expenses exhaust budgeted sums for the current fiscal year, no other speaking events requiring NMT to absorb such fees will be scheduled in that fiscal year, but can be scheduled as a first-come first-serve basis for the following fiscal year.